HOUSE OF REPRESENTATIVES

THURSDAY, MARCH 14, 1940

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Blessed Lord God, most merciful and most gracious, amid the tumult of the day enable us to hear Thy calming voice. In a dreary outlook upon a distracted world, crown our minds with unconquerable faith and our hearts with uncrushed hopes. Help us through all waiting hours to deny the claim of every earthly folly and sin, standing erect and freeing ourselves as becometh Thy children and the servants of the state. Inspire us with the mind that receives the expressions of the eternal mind and with the heart that responds to the quivering heart of the Divine. Permit no future to allow an eclipse of our faith nor the splendor of the peace of God, who brought again from the dead the Great Shepherd of the sheep with the blood of an eternal covenant, even our Lord Jesus. Almighty God, we beseech Thee to hew out of earth's prison walls portals of release, until the thundering soul of Christendom finds religious tolerance and political freedom. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Latta, one of his secretaries.

EXTENSION OF REMARKS

Mr. MARTIN J. KENNEDY. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a memorial address delivered by former Representative Martin, of Colorado.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on two subjects, and to include certain excerpts.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LELAND M. FORD. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein an editorial from the Los Angeles Times on the census, and I also ask unanimous consent to extend my own remarks and include therein a letter from John McFadden, director of public information of the N. Y. A., and excerpts.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BARTON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein an address delivered by my colleague, Hon. HAROLD KNUTSON, before the New York Board of Trade.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. THORKELSON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein excerpts from an article which appeared in the Philadelphia Public Ledger and the New York Herald Tribune in regard to the census.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. THORKELSON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. THORKELSON. Mr. Speaker, on March 4 I spoke in New York on constitutional government and the rights of the people as set forth in the Constitution of the United States. In the mail today I received a book entitled "Choice Is Mine," and appended to the book these two notices, which are a threat on my life:

THORKELSON: There seems to be truth in the saying that "there's no fool like an old fool," at least insofar as you're concerned. McWilliams' dupes have learned not their lesson, but his. Have you learned yours yet? Evidently not—but it's in this story, if you want to know what it's all about before you're called.

Don't forget: This trip may end any second. Have you the courage to face your Maker? Be prepared. Read Choice Is Mine, because next time you may be one of those on the other side.

Mr. Speaker, there is no reply to this, for the writer did not sign his name. We know, however, happenings of the past; and, while messages of this sort may be looked upon as coming from twisted mentalities or cranks, they should not be treated lightly, for it is significant that our own policing departments are lax in their obligated duties.

In reading this book, one can raise no question as to its origin, and I say now that if the Department of Justice and other law-enforcement bodies do not protect their own citizens in the performance of their duties to this Republic, the people themselves must take action and remove the menace which is now threatening our Nation.

FEDERAL SURPLUS COMMODITIES CORPORATION

Mr. COCHRAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. COCHRAN. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include therein part of certain correspondence I have received from the Department of Agriculture.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. COCHRAN. Mr. Speaker, the gentleman from New York [Mr. TABER], a few days ago in the course of a speech was rather critical in referring to the Federal Surplus Commodities Corporation, calling attention to the shipment of several carloads of apples to Bentonville, Ark., for distribution. It appears the vicinity of Bentonville produces a large crop of apples. I felt this was a proper matter for the Committee on Expenditures in the Executive Departments to look into, and I have made some investigation. I now have some correspondence from the Department of Agriculture on the subject. The Secretary of Agriculture fully justifies the shipment of the apples to this territory and also shows practically everybody interested granted their approval.

Mr. Speaker, as part of my remarks I include a portion of the report I received from the Department, including the Secretary's letter. The report follows:

DEPARTMENT OF AGRICULTURE,
Washington, D. C., March 13, 1940.

Hon. JOHN J. COCHRAN,
House of Representatives.

DEAR MR. COCHRAN: On the floor of the House of Representatives, on March 11, Mr. TABER, of New York, called attention to a quotation from the Saturday Evening Post to the effect that the Federal Surplus Commodities Corporation had shipped 3 carloads of Washington relief apples to Bentonville, Ark., where there were already 30 carloads in cold storage for lack of a market. A further statement was made that this was one of many instances of the way money is being wasted by the Federal Surplus Commodities Corporation.

I should like to present the facts both as to the shipment of apples into Bentonville and also as to the action taken by the officers of the Corporation in this instance.

On December 23, 1939, four cars of Idaho apples arrived at Bentonville, Ark., for distribution to eligible persons on relief and for use in connection with free school lunches. The shipment of these apples was made pursuant to a specific request of the

Arkanses Department of Public Welfare. The request was at first refused because of concern on the part of officers of the Corporation over the possibility of interference with local marketing. However, the Corporation was assured that proper authorities within the State were satisfied that no such interference would result. A representative of the Arkansas College of Agriculture also gave his assurance that there would be no conflict with local marketing.

In addition to this, officials of the Federal Surplus Commodities Corporation knew there were no surplus apples in northwest Arkansas, including Benton County, available for purchase for relief and school-lunch distribution. On October 16, 1939, Mr. CLYDE T. ELLIS, Representative from the Third District of Arkansas, had requested the Corporation to conduct an investigation of the apple situation in northwest Arkansas, including Benton County, and within a week thereafter a Federal representative was on the ground and an extension economist was designated by the director of extension of the State of Arkansas to accompany him on a survey. As is the usual procedure in connection with programs for the purchase of agricultural surpluses, in cooperation with county agents, numerous conferences were held with growers throughout the area. In this particular instance the result was that growers reported that they did not wish to sell apples to the Government, as the crop had been very short, and they felt that they could get a satisfactory price commercially. The grower holdings at that time in the 5 cold storages located in northwest Arkansas totaled only 31,000 bushels, as compared with normal holdings of 90,000 to 130,000 bushels.

The article quoted did appear in a Bentonville, Ark., newspaper. The Federal Surplus Commodities Corporation, therefore, again sent a representative into the area to reconcile this report with known facts. In connection with this investigation a meeting was held in Rogers, Ark., on January 5, 1940, which was attended by apple growers, officials of the chamber of commerce, Red Cross, relief agencies, mayors of towns, one State official, and public-spirited businessmen. The situation was thoroughly discussed, and the following resolution unanimously adopted by the interested parties present:

"*Resolved*, That the welfare agency be permitted and instructed to distribute the five carloads of Idaho apples which were recently shipped into Bentonville, to be distributed to relief clients in the five counties comprising this welfare district, and that are now on storage at Bentonville."

There being a limited number of apple growers present at the meeting on January 5, another meeting was held on January 8, at which the president of the Benton County Farm Bureau presided, and which was attended by many other growers, county agents, cold-storage owners, and Farm Bureau officials. It was brought out at that meeting that, instead of 30 carloads in storage in Benton County, as reported by the press, there were less than 16 carloads in all northwest Arkansas; also that none of the growers present cared to offer apples in sale to the Federal Surplus Commodities Corporation, as this would involve regrading.

There are accompanying this letter photostatic copies of seven documents which very forcibly establish the facts in connection with this alleged incompetent handling, as summarized by the mayor of the city of Bentonville in one of the documents:

"I personally contacted every responsible grower and merchant, locally, and did not find one single intelligent criticism over the shipment of these apples into our midst, for release to those upon charity."

Knowing your interest in the work concerning agricultural surpluses being carried on by this Department, I felt sure that you would be glad to know the facts in this particular case.

Sincerely yours,

H. A. WALLACE, *Secretary.*

Enclosures.

GRAHAM ORCHARDS,
Lowell, Ark., January 17, 1940.

Mr. M. A. CLEVENGER,
Washington, D. C.

DEAR MR. CLEVENGER: Had a good day at State meeting. Good program. Everybody in a good humor.

We passed a resolution, unanimously, asking the Surplus Commodities Corporation to ship all they can, of this crop, into our State. The members thought next crop may be different.

Very truly,

E. S. GRAHAM.

CITY OF BENTONVILLE,
Bentonville, Ark., January 15, 1940.

Mr. H. C. ALBIN,
Federal Surplus Commodities Corporation,
Washington, D. C.

DEAR MR. ALBIN: I simply want to tell you how well your Mr. Merritt Clevenger handled the matter of the apples shipped into our community recently and over which some complaint arose.

When Mr. Clevenger got through with the matter I think everyone understood better the working of the Surplus Commodities Corporation and were perfectly satisfied.

I personally contacted every responsible grower and merchant locally and did not find one single intelligent criticism over the shipment of these apples into our midst for release to those upon charity.

Mr. Clevenger handled the matter with intelligence and energy; we appreciate you sending anyone like him to handle such matters.

Yours truly,

D. W. PEEL, Jr., *Mayor.*

CHAMBER OF COMMERCE,
Rogers, Ark., January 27, 1940.

Mr. H. C. ALBIN,
Federal Surplus Commodities Corporation,
1901 D Street NW., Washington, D. C.

DEAR MR. ALBIN: We appreciate very much the way in which the apple question was handled by Mr. Clevenger early this month. The businessmen, welfare officials, and the majority of growers were all satisfied in the final analysis, which is somewhat unusual in many instances.

We appreciate the work that the F. S. C. C. is doing in assisting the grower, and, as a result, furnishing food for the needy.

The ease and speed with which Mr. Clevenger handled the difficult task of straightening out the northwest Arkansas apple situation is highly complimentary to your organization, and we cannot sing too loudly our praises for him.

Yours truly,

CHARLES G. HAYS,
Secretary-Manager.

COOPERATIVE EXTENSION WORK IN AGRICULTURE AND HOME ECONOMICS, STATE OF ARKANSAS,
Bentonville, Ark., January 5, 1940.

Mr. M. A. CLEVENGER,
F. S. C. C. Representative,
Washington, D. C.

DEAR MR. CLEVENGER: As a result of the controversy in this district concerning apples that were sent here from Idaho to distribute to relief clients, a meeting of businessmen, professional men, and apple growers was held at the Harris Hotel, Rogers, Ark., at 10 o'clock this morning.

The following resolution was introduced by E. S. Graham, State representative and apple grower in Benton County:

"*Resolved*, That the welfare agency be permitted and instructed to distribute the five carloads of Idaho apples which were recently shipped here to be distributed to relief clients in the five counties comprising this welfare district, and that are now on storage at Bentonville."

The motion was made and seconded that this resolution be passed as presented by Mr. Graham. The motion was carried by unanimous vote of all men present except representatives of the welfare agency and agricultural extension service of the University of Arkansas, which did not vote because of the fact these men considered this matter to be decided by apple growers, business, and professional men in the affected district.

The following men were present and voted for the resolution: E. S. Graham, apple grower and State representative, Lowell; W. L. Hinton, apple grower, Rogers; M. R. Puryear, apple grower, Bentonville; W. T. Bolin, manager of the cold storage at Bentonville; Earl Harris, member of the board of directors of chamber of commerce, Rogers; E. W. Pate, editor, Rogers Daily News; T. O. C. Murphy, apple grower, Rogers; Craig Jackson, chairman of the public relation committee, chamber of commerce, Rogers; D. W. Peal, Jr., mayor of Bentonville and chairman of the county welfare board; L. A. Harris, vice president of the American National Bank, Rogers; Denver Murray, president of chamber of commerce, Rogers; E. G. Sharp, apple grower, Rogers; S. Casey, manager of the cold storage, Rogers; Charles Foster, Benton County Red Cross chairman, Bentonville; and Charles Hayes, secretary of Rogers Chamber of Commerce.

In addition to the men mentioned in the above paragraph the following men were present but did not cast a vote, either positive or negative: Clifford L. Smith, county agent, Washington County; P. R. Corley, county agent, Benton County; Kermit C. Ross, assistant county agent, Washington County; J. R. Rice, county welfare director, Benton County; Perry Arthur, superintendent of the surplus commodity warehouse, Bentonville; J. H. Pitcock, district area supervisor, surplus commodity, Fort Smith; and yourself.

Mr. J. H. Kirkpatrick, president of the Benton County Farm Bureau, and Mr. H. S. Mobley, president of the Washington County Farm Bureau, could not attend the meeting due to ice-covered roads. As you know, you and I have since contacted these men and after explaining the proposition to them, both have agreed that the logical thing to do would be to distribute the apples that are now in storage at Bentonville. They both expressed their opinion that they could see nothing to arouse criticism of the growers in this section of the State provided such apples were distributed to relief clients only.

I wish further to state that the meeting was very harmonious in that no opposition whatsoever developed to the distribution of the Idaho apples after a clear explanation had been made by you.

Yours very truly,

P. R. CORLEY,
Acting Chairman, County Agent.

BENTON COUNTY FARM BUREAU,
Bentonville, Ark., January 10, 1940.

Hon. CLYDE T. ELLIS,
Congressman, Arkansas Third District,
Washington, D. C.

DEAR CLYDE: Replying to your telegram recently received concerning surplus apples in Benton County. I am pleased to advise that conditions are better than were represented to you. Instead of 68 carloads of apples we found less than 10,000 bushels. We also found that the drought and other climatic conditions cut the grade of apples so severe that it was utterly impossible to meet standards

of the F. S. C. C. Apple growers at a meeting Monday expressed their appreciation of the efforts made to move surplus apples, but decided that they could market their fruit more profitably than through the Corporation.

Thank you on behalf of our growers as well as myself. I am,

Yours very sincerely,

J. H. KIRKPATRICK,
President, Benton County Farm Bureau.

ECONOMY

Mr. RICH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RICH. Mr. Speaker, we heard a good deal at the beginning of this session of Congress from the other end of the Capitol with regard to economy and that they wanted to have an economy committee appointed. It did not happen. The appropriations that have already been passed this year by the House of Representatives amount to $5,480,146,435, and this includes the authorization passed the other day for the Navy. I have noticed that when appropriation bills come back here from the Senate they are padded, they are increased, they are raised; and yet that great body talked about cutting down expenses. Every appropriation bill passed at the last session they increased over the amount that passed the House of Representatives. Why? Let us see them do something about cutting down appropriations rather than increasing them all very considerably. Including the authorization for the Navy, we have appropriated already just about as much money as we received last year in taxes, which amounted to $5,667,823,625.59, and we must be careful from now on what we do in our appropriations. I predict that before this Congress adjourns it will be a squandering Congress instead of a conservative body. You still have to pass appropriations for relief, appropriations for the Army, appropriations for the District of Columbia, and other important appropriation bills. All you do is appropriate. I again ask you the great question, Where are you going to get the money?

[Here the gavel fell.]

CONTESTED ELECTION CASE—SCOTT AGAINST EATON

Mr. GAVAGAN. Mr. Speaker, by direction of the Committee on Elections No. 2, I submit a report on the contested-election case of Byron N. Scott, contestant, against Thomas M. Eaton, contestee, from the Eighteenth District of California.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House Resolution 427

Resolved, That Byron N. Scott was not elected a Member from the Eighteenth Congressional District of the State of California to the House of Representatives at the general election held November 8, 1938; and

Resolved, That Thomas M. Eaton was elected a Member from the Eighteenth Congressional District of the State of California to the House of Representatives at the general election held on November 8, 1938.

The SPEAKER. The resolution, together with the report, will be referred to the House Calendar and ordered to be printed.

COMMITTEE ON PATENTS

Mr. KRAMER. Mr. Speaker, I ask unanimous consent that the Committee on Patents may be permitted to sit during the session of the House today.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

EXTENSION OF REMARKS

Mr. LARRABEE asked and was given permission to extend his own remarks in the RECORD.

Mr. ANGELL. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a short article appearing in the Sunday Oregonian on Oregon Bankers Top Nation in Farm Activities.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. MARTIN of Iowa. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein two letters from a constituent on the farm problem.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. CLEVENGER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein three tables compiled from records of the Department of Agriculture.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. THILL. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a short news article.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

EXTENSION OF REMARKS

Mr. FERNANDEZ. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD by including an editorial from the New Orleans States on sugar.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES—LAWS ENACTED BY NATIONAL ASSEMBLY OF THE PHILIPPINE ISLANDS

The SPEAKER laid before the House the following message from the President, which was read and referred to the Committee on Insular Affairs.

To the Congress of the United States:

As required by section 2 (a) (11) of the act of Congress approved March 24, 1934, entitled "An act to provide for the complete independence of the Philippine Islands, to provide for the adoption of a constitution and a form of government for the Philippine Islands, and for other purposes," I transmit copies of laws enacted by the National Assembly of the Philippine Islands. Included are laws of the first national assembly, third session, January 24, 1938, to May 19, 1938; and of the second national assembly, first session, January 23, 1939, to May 18, 1939; first special session, August 15, 1939, to September 18, 1939; and second special session, September 25, 1939, to September 29, 1939.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *March 14, 1940.*

TREASURY AND POST OFFICE DEPARTMENTS APPROPRIATION BILL, 1941

Mr. LUDLOW. Mr. Speaker, I call up conference report on the bill (H. R. 8068) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1941, and for other purposes, and ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8068) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1941, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 4, 6, 7, and 12.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 8, 9, 11, 13, 14, 16, 17, and 18, and agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum named in such amendment, insert "$3,000,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "$1,750,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: Omit the matter stricken out and the matter inserted by such amendment, and on page 51 of the bill, commencing with the colon (:) in line 14, strike out the remainder of the line and line 15 and line 16 to and including the word "to"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "$9,975,000"; and the Senate agree to the same.

LOUIS LUDLOW,
EMMET O'NEAL,
GEO. W. JOHNSON,
GEORGE MAHON,
JOHN TABER,
CLARENCE J. MCLEOD,
FRANK B. KEEFE,
Managers on the part of the House.

CARTER GLASS,
KENNETH MCKELLAR,
PAT MCCARRAN,
J. E. MILLER,
H. C. LODGE, JR.
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8068) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1941, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments, namely:

Treasury Department

On No. 1: Makes a technical correction in the text of the appropriation for the United States Processing Tax Board of Review.

On Nos. 2, 3, 4, 5, 6, 7, and 8, relating to the Coast Guard: Restores the provision of the House bill, stricken out by the Senate, making $100,000 available for the Coast Guard station authorized by the act of June 29, 1936; makes $8,000 of the appropriation for aids to navigation available for buoys and lights on the American side of the international waters of the Lake of the Woods and Rainy Lake, as proposed by the Senate; inserts the clarifying language proposed by the Senate in connection with the designation of items for the "A" and "B" budgets.

On No. 9: Appropriates $688,973, as proposed by the Senate, instead of $628,470, as proposed by the House, for salaries and expenses of the Procurement Division.

On No. 10: Makes $3,000,000 of the appropriation for strategic and critical materials immediately available instead of $5,000,000, as proposed by the Senate.

Post Office Department

On No. 11: Appropriates $587,600, as proposed by the Senate, instead of $585,000, as proposed by the House, for salaries for the office of the Second Assistant Postmaster General.

On No. 12: Appropriates $111,300, as proposed by the House, instead of $119,320, as proposed by the Senate, for salaries in the office of the Solicitor of the Post Office Department.

On No. 13: Appropriates $114,120, as proposed by the Senate, instead of $111,240, as proposed by the House, for salaries in the Bureau of Accounts.

On No. 14: Makes a technical correction in the text of the appropriation for contingent expenses of the Department.

On No. 15: Appropriates $1,750,000, instead of $1,700,000, as proposed by the House, and $1,800,000, as proposed by the Senate, for miscellaneous items at first- and second-class post offices.

On No. 16: Appropriates $16,074,149, as proposed by the Senate, instead of $15,674,149, as proposed by the House, for foreign air-mail transportation.

On No. 17: Appropriates $11,500,000, as proposed by the Senate, instead of $11,100,000, as proposed by the House, for Star Route Service.

On No. 18: Appropriates $1,325,500, as proposed by the Senate, instead of $1,270,000, as proposed by the House, for power-boat service.

On No. 19: Omits the provision in both the House bill and the Senate amendment for expenses of attendance of delegates from the Post Office Department at certain international postal meetings.

On No. 20: Appropriates $9,975,000, instead of $10,000,000, as proposed by the Senate, and $9,950,000 as proposed by the House, for rent, etc., for first-, second-, and third-class post offices.

LOUIS LUDLOW,
EMMET O'NEAL,
GEO. W. JOHNSON,
GEORGE MAHON,
JOHN TABER,
CLARENCE J. MCLEOD,
FRANK B. KEEFE,
Managers on the part of the House.

Mr. LUDLOW. Mr. Speaker, I move the adoption of the report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent that I may extend my remarks at this point in the RECORD and include a letter and a financial statement explaining the provisions of the bill and a final summation of the measure in its conference form.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. LUDLOW. Mr. Speaker, your conferees, when we met with the conferees of the Senate, were confronted by only a few points in disagreement. The Senate had accepted our bill as a sound and wholesome measure and had made but few changes, namely, of a minor character. Under the circumstances, a conference agreement was easily and speedily obtained. The agreement I present to you is unanimous, being signed by all of the House and Senate conferees.

The largest item subject to conference action was an amendment which the Senate adopted adding $400,000 to the bill to provide for an additional trip per week on the trans-Atlantic air-mail route. This estimate came to Capitol Hill too late to be considered in framing the bill in the House, and your conferees were faced with it for the first time in the conference committee.

Of all of the component elements of our foreign Air Mail Service, the trans-Atlantic service is the most promising in respect both to usefulness and to revenues. Notwithstanding the serious handicaps and dislocations imposed upon this Service by the war in Europe, it is developing in a way that exceeds all expectations, and your conferees did not hesitate to approve the item the Senate had inserted in the bill, which will substantially improve and strengthen the trans-Atlantic air mail and augment its advantages for the benefit of a rapidly growing patronage.

Another Senate amendment which we approved increases the appropriation for salaries and expenses of the Procurement Division in the sum of $60,503. We were assured that if this money were allowed, the Procurement Division would be able to build up its force on a basis of permanency and stability so that it never again will be necessary to transfer personnel from emergency rolls to the regular roll. The constant tendency of administrative officials to urge that emergency personnel be covered into regular jobs has been a worrisome problem to appropriating subcommittees, and we were glad to see a solution reached, if only in this instance.

The Senate had stricken out of our bill a provision appropriating $100,000 to begin the construction of a Coast Guard Station on Lake St. Clair, Mich. The records of the Coast Guard show that more commerce passes that point than any other place under consideration for such facilities and that the loss of life there has been exceptionally great. On a showing of merit the Senate conferees yielded and the item was restored to the bill.

The only other item of exceptional interest discussed by the conferees was a Senate amendment appropriating $55,500 to enable the contractor on the route from Seward via Kodiak Island, the Alaskan Peninsula, and points on Bristol Bay, Alaska, to provide boat service to those isolated communities.

This estimate was first presented to our subcommittee and although it had a very strong humanitarian flavor, we felt it to be our duty to reject it. In effect, it was proposed to

furnish a passenger service and hang it on the fiction of a postal service. Of the need of the service there is no doubt. Without it these far-away inhabitants are virtually marooned and in case of illness there would be no transportation facilities to take the sick person to a hospital. Although the postal revenue from the operation would be almost nothing compared with the expense involved it was proposed to pay for this needed service out of postal appropriations.

The plain fact is that the contemplated operation has almost no relevancy at all to the postal service. It merely foists onto the postal service another nonpostal item, of which there are already far too many. Our subcommittee acted, as we thought, to protect the integrity of the postal service.

However, notwithstanding the irregularity of the entire proposal, it could not be divested of its humanitarian aspects and when the Senate adopted the item, we House conferees, somewhat against our best judgment, perhaps, yielded to the impulses of the heart and accepted it. Postmaster General Farley, in the meantime, had approved the appropriation and had indicated his willingness to perform the service, and we believed that since he felt that the integrity of his Department was not jeopardized there perhaps was no reason why we should worry. We will be hoping that this appropriation will not establish a precedent to plague us in the years to come, but if postal appropriations can be drawn upon to establish passenger service in Alaska why cannot they be drawn upon with equal justice to establish similar service in any other remote possessions of ours?

Final favorable action on this project was a striking tribute to the ability of ANTHONY DIMOND, the delegate from Alaska, and the high esteem in which he is universally held by the Members of both the House and Senate. He pleaded the cause of his people with a persistence that was almost irresistible.

As chairman of the conferees on the part of the House I asked for some assurance that this proposed abnormal operation, masquerading as a postal service, would be temporary and Governor Gruening and Mr. DIMOND joined in a statement which I herewith present to the House and ask to have made a part of the RECORD. It is as follows:

WASHINGTON, D. C., *February 17, 1940.*

Hon. LOUIS LUDLOW,
Chairman, Subcommittee on Appropriations,
House of Representatives, Washington, D. C.

DEAR MR. LUDLOW: This is written in answer to the question which you asked us when we talked with you recently about the desired additional appropriation for powerboat service in Alaska, which has been incorporated in the Treasury-Post Office supply bill in the Senate in the amount of $55,500.

It is our considered judgment, after careful review of all of the facts, that the aid now asked for will not be needed beyond a period of 4 years; for we are confident that at the expiration of 4 years the population of the area to be served will be sufficiently increased and its industries correspondingly expanded so that the desired service can be given without assistance through the Post Office Department or any other department or agency of the Government. However, it will probably be necessary to make a 4-year contract in order to secure the service, for otherwise the contractor would not be justified in securing and fitting out a vessel which will be adequate for the job. Obviously, a contractor would not be warranted in going to large expense in securing and preparing a vessel for the run if the contract would not extend for a period longer than 1, or even 2 years.

So far as we are able to do so, we assure you that it is not our intention to renew the present request beyond the 4-year period. And if application should be made to renew it, we believe that the subject ought to be examined anew by Congress as though no authority had ever been given.

Since the bill was before the House, thorough examination has again been given to the possibility of securing the desired assistance through the Coast Guard. Admiral Waesche, Commandant of the Coast Guard, advises that it is not possible for the Coast Guard to supply the service unless Congress shall amend the basic law of the Coast Guard, and also supply funds with which to buy or build a suitable vessel.

It is now certain that unless relief can be given through making the appropriation asked for, it will not and cannot be given at all; for every other conceivable source of aid has been thoroughly explored and none found which offers the slightest chance for help.

Sincerely yours,

ERNEST GRUENING,
Governor of Alaska.
ANTHONY J. DIMOND,
Delegate from Alaska.

While the members of the conference committee on the part of the House are willing that this service shall be established on account of the humane considerations involved, we do not think it should go on forever, and we urge the gentleman from Alaska [Mr. DIMOND] and the people he represents to put their ingenuity at work in an effort to find a better plan to furnish the needed service, as we frankly do not believe the Appropriations Committee will long countenance the figment of loading onto the Postal Service an operation that has almost no relation thereto. We at least hope that this better way will be found before the expiration of the 4-year period mentioned in the statement signed by Governor Gruening and the gentleman from Alaska [Mr. DIMOND].

I present to the House a financial picture giving the picture of this appropriation bill from its beginning to a summation in its final form, as follows:

Treasury and Post Office Departments appropriation bill, 1941

Total of Budget estimates:		
Treasury Department		$226,748,680
Post Office Department		816,897,832
Total		1,043,646,512
Total of bill as passed the House:		
Treasury Department	$218,691,530	
Post Office Department	813,463,082	
		1,032,154,612
Amount of House bill under budget estimates		11,491,900
Amount of Budget estimates considered by Senate:		
Treasury Department	$226,748,680	
Post Office Department	817,297,832	
		1,044,046,512
Amount of bill as passed Senate:		
Treasury Department	218,652,033	
Post Office Department	814,132,082	
		1,032,784,115
Senate bill under Budget estimates considered by Senate		11,262,397
Senate bill exceeds House bill		629,503
(Of the Senate increase, $400,000 is for foreign air mail under a supplemental estimate not considered by the House.)		
Conference agreement:		
House agreed to Senate amendments		$646,483
Senate recedes:		
Restores to House bill		100,000
Recedes from Senate items		83,020
Added to Senate total		16,980
Total of bill as agreed in conference:		
Treasury Department		218,752,033
Post Office Department		814,049,062
Total		1,032,801,095
Bill as agreed under Budget:		
Treasury Department	$7,996,647	
Post Office Department	3,248,770	
		11,245,417

APPOINTMENT OF ADDITIONAL DISTRICT AND CIRCUIT JUDGES

Mr. LEWIS of Colorado. Mr. Speaker, I call up House Resolution 424.

The Clerk read as follows:

House Resolution 424

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 7079, a bill to provide for the appointment of additional district and circuit judges. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. LEWIS of Colorado. Mr. Speaker, I yield 30 minutes to the gentleman from Michigan [Mr. MICHENER], and at this time reserve 5 minutes for myself.

This rule, as indicated by the resolution which has just been read, is an open rule for the consideration of H. R. 7079. The rule provides for 1 hour of general debate, and the bill, of course, is subject to amendment.

The bill provides for two additional circuit judges and for five additional district judges. The two circuit judges are, one for the sixth circuit, which comprises the States of Kentucky, Michigan, Ohio, and Tennessee; and one for the eighth circuit, which comprises the States of Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. The five district judges are, one for the southern district of California, one for the district of New Jersey, one for the northern district of Georgia, one for the eastern district of Pennsylvania, and one for the southern district of New York.

All these judgeships have been recommended both by the judicial conference and the Attorney General. The report from the Committee on the Judiciary is unanimous, and a further statement in their report is to the effect that in the opinion of that committee these judgeships ought to be created and the positions thus created filled immediately.

I reserve the remainder of my time and ask the gentleman from Michigan [Mr. MICHENER] to use some of his time.

Mr. MICHENER. Mr. Speaker, the gentleman from Colorado has outlined what the bill is and what it does. This bill, as reported, is the unanimous report of the Committee on the Judiciary. I voted for the bill as reported in the Committee on the Judiciary, and I also voted for the rule to bring the bill on the floor with the understanding that the bill is to include only the judges mentioned in the bill as reported by the committee. I am opposed to including additional judges by amendment from the floor. As is well known to those who have been here some time, the Congress a number of years ago set up a body known as the judicial conference. That consists of the Chief Justice of the Supreme Court of the United States and the presiding judge in each circuit in the United States. The Attorney General of the United States is also present. That conference meets in the month of September each year, according to law, and in the city of Washington. It considers the needs of the Federal judiciary. It recommends where additional judges are needed. I have taken the position that I will not vote for a judge not recommended by the conference, because those are not political judges. I do not believe that the Chief Justice of the Supreme Court and the judges of the several circuits would vote primarily for political judges. However, the Committee on the Judiciary has always reserved the right to review those recommendations. I might also add that the Committee on the Judiciary never considers politics in connection with recommendations so far as appointments to Federal judgeships are concerned. I know that one can present a case by bringing in a lot of statistics. For instance, some people think we should have judges according to population. Nothing is further from the fact. The real criterion is: Can a litigant have his case heard before the court having jurisdiction within a reasonable time? It makes no difference if there are 5,000 cases on the docket. I remember the time when some Federal courts were carrying minor cases—even draft-evader cases from the recent World War—to pad, so to speak, the number of cases pending before the court. They never intended to try those cases; they never would try those cases; but they were cases that could be shown in a compilation of unfinished business before the court.

I think the Committee on the Judiciary is unanimously satisfied with this bill as presented by the committee, and for which a rule was granted, and that it is a good bill and is not a political bill. I expect to support the bill if no additional judges are added by amendments from the floor.

Mr. LEWIS of Colorado. Mr. Speaker, we have no requests for time on this side.

Mr. MICHENER. Then, Mr. Speaker, I yield 10 minutes to the gentleman from New Jersey [Mr. KEAN].

By unanimous consent Mr. KEAN was granted leave to print as a part of his remarks certain excerpts from newspapers and certain letters.

Mr. KEAN. Mr. Speaker, I am frank to say that I know nothing of the need for additional judges provided for by this bill in any States or districts outside of New Jersey. Therefore, I want to devote myself to the New Jersey situation.

Let us look at the history of this proposed new judgeship. In July 1938, almost 2 years ago, Judge Clark, of the district court, was promoted to the circuit court. When consideration was being given to the filling of the vacancy thus created, there arose a quarrel between Mayor Hague, from north Jersey, and the senior Senator from New Jersey, from south Jersey, as to whom should be appointed.

Both remained adamant and it seemed that these Democratic leaders could not reach an agreement as to whom should be recommended to the President.

The President apparently had no desire to take the matter into his own hands, as evidently he did not wish to offend those who were reputed to be able to produce not only the type of delegation to the Democratic National Convention which he might desire, but also a tremendous number of Democratic votes on election day.

So, in order to have no hard feelings, it was decided that a bill should be introduced providing for two judges in New Jersey to take the place of the one, and thus each of the political leaders would be able to recommend his own choice for appointment, one from north Jersey and one from south Jersey.

The fact that this additional judgeship is not needed, or that it would cost the taxpayers of the United States about $20,000 a year, was given no consideration. What is $20,000 a year to our New Deal spenders if it means a few more votes for their candidates?

When this bill came up on the Consent Calendar last winter, it was passed over. In the meantime, Federal justice in New Jersey continued to be conducted by the three judges, with the one vacancy continuing.

It is true that there was some congestion, but a most interesting point is that in spite of the fact that there were only three judges sitting from July 5, 1938, there were 347 less cases pending at the end of the fiscal year ending June 30, 1939, than there were at the end of the previous fiscal year.

Thus, you may see that with only three judges working they were gaining on the calendar.

At last, after 18 months with only three judges, in December a fourth judge was appointed.

Now if the administration found that they could get along for 18 months with three judges instead of four, what possible excuse is there for burdening the taxpayers with five, at the additional annual cost of $20,000 every year.

The hypocrisy of the administration in requesting this additional judgeship can be well seen, for in Attorney General Murphy's recommendation to the Senate committee in July 1939 he states:

> The volume of new business has been considerably increasing in this district.

And then he compares the increase in the number of actions filed in the fiscal year 1938 with those in 1937, and he gives a figure, excluding bankruptcy cases, of 235. However, he fails to state that there was a decrease from the year 1936 to 1937 of 542 cases, and again last year there was a decrease of 102. If we would include the bankruptcy cases, the showing is even better.

District Judge Merrill E. Otis in an article in the University of Kansas Law Review in June 1939 sets up a measuring stick as to the number of cases which a district judge should be able to handle: 400 criminal cases, 200 civil private cases, 20 civil cases—United States a party.

If this yardstick is correct, the 4 New Jersey judges should be able to handle 1,600 criminal cases, 800 private cases, 800 civil cases—United States a party. There were pending at the end of the last fiscal year in the New Jersey district 480 criminal cases, 588 private cases, 412 civil cases—United States a party.

Thus you may see that according to this yardstick, the four present judges, who are all conscientious, able men, should be easily able to handle the pending litigations—and still the politicians want another judge.

Mr. HART. Mr. Speaker, will the gentleman yield?

Mr. KEAN. I yield to the gentleman from New Jersey.

Mr. HART. The gentleman has quoted from several members of the bar and others in connection with an extra judgeship in New Jersey. Has the gentleman any expression of opinion from any of the members of the court now sitting as to the need for this judgeship?

Mr. KEAN. As I stated here, the members of the court sitting 2 years ago voted against it. Last year they voted in favor of it, but I call the attention of the gentleman to the fact that the number of cases pending at the time they voted against these judgeships was greater than the number of cases pending at the present time, and I feel that those judges, having been burdened with that extra 33 percent of work, through the failure of the administration to appoint that third judge——

Mr. HART. Oh, the gentleman is not even attempting to answer my question.

The SPEAKER. The time of the gentleman from New Jersey has expired.

Mr. KEAN. Mr. Speaker, I want to read to you certain testimony which appears in the hearings, pages 187 to 191, when this matter was being considered by the subcommittee of the Judiciary Committee of the Senate.

Mr. Morris H. Cohn, chairman of the committee on the judiciary of the Federal Bar Association of New York, New Jersey, and Connecticut, stated in his testimony:

Our association is definitely of the opinion that there exists no present need to create an additional Federal judgeship for the district of New Jersey.

Again, I quote from a letter from Henry Ward Beer, president of the same association, appearing in the same testimony:

According to statistics, there is at the persent time no need for an additional district court judge in New Jersey.

I also wish to quote from a statement made on the same occasion by Mr. Ralph E. Lum, former president of the New Jersey Bar Association, who was appearing before the committee as chairman of the judiciary committee of the New Jersey Bar Association:

We appear in opposition to an additional district judge in New Jersey. Taking the situation as a whole, and I know the whole State pretty well, there is no need for the additional judge. There is no work for him to do. We do not need more than four judges. I am sure that with the four judges we have, another judge is not needed now. We do not need additional help in the district courts. I can take any kind of a case there and have it heard before summer recess this year. I do not see any need for an additional judge in New Jersey.

When this legislation was first proposed, all four of the sitting district court judges met in a conference and unanimously condemned the proposal to add a fifth judge.

It is true that last autumn, after 18 months with only three judges working, they asked for further help; but this was only natural as owing to the administration's failure to appoint the fourth judge each of them was suffering from the burden of 33 percent extra work, which has now been removed.

There were no public hearings on this bill before the House committee, though Circuit Judge William Clark, who was a member of the district court for 13 years and whose promotion to the circuit court caused the vacancy which lasted for 18 months, signified his willingness to appear before the committee in opposition to this bill.

Judge Clark is strongly opposed to the creation of this additional judgeship, and I hold in my hand a letter from him, stating his views, addressed to my colleague the gentleman from New Jersey [Mr. HARTLEY], which I ask unanimous consent to print here as a portion of my remarks.

I also wish to quote from an editorial from the Newark Evening News of July 27, 1939:

[From the Newark Evening News of July 27, 1939]

NO FIFTH JUDGESHIP

The Senate confirmed the nomination of District Judge William Clark to be a judge of the third circuit court of appeals on June 16, 1938, since which time there have been three United States district judges functioning in New Jersey instead of the statutory four. The vacancy has existed for more than 13 months. Now, on top of this, the Senate passes an act creating a fifth judgeship for this district, and the bill goes to the House of Representatives for action. The House, in the light of all the circumstances, should reject the legislation.

The fourth judgeship remained vacant during the last 6 months of Attorney General Cummings' tenure, and it has remained vacant for almost 7 months since Frank Murphy became Attorney General. The criminal docket in this district is reported to be in a serious state of congestion. Yet, Mr. Murphy announced months ago, and has restated it since, that he was going to purge the Federal courts of politics, to disregard politics in appointments to the Federal bench, to reform inefficient and laggard methods of handling court business, and to clear up congested dockets.

One might say in this connection: Mr. Attorney General, there has been a vacant judgeship in this State during almost 7 months of your term of office, during which the Congress has been in session, the Senate prepared to consider and confirm a suitable nomination. What is the reason no appointment has been made? Could it be politics? Could it be, as Senator REED, of Kansas, charged in the Senate, that Mr. Hague and Senator SMATHERS can't get together on a candidate? Can it be that the creation of a fifth judgeship is designed to liquidate this dilemma?

With one judgeship vacant for 13 months, does not the proposed creation of another place have an aroma of politics? Are you aware that when the proposal for a fifth judge was first made to the Congress, in the report of Mr. Cummings, it was stated that all four district judges had expressed themselves as opposed to Mr. Cummings' recommendation when one of his assistants, Mr. Keenan, first broached the subject to them?

Suppose we fill the fourth judgeship and see what happens. Suppose Mr. Murphy then speeds up the presentation of cases here and integrates the work of the courts, as he has promised to do everywhere in a general statement on the needs of the Federal bench. Suppose, in case of need, a retired Associate Justice of the Supreme Court of the United States is sent here to sit as a district judge, as was done in New York, or that one of the retired judges of the third circuit is designated to help out as a district judge in certain cases. Let's see what happens then.

If, in spite of all this, it can be demonstrated that congestion of dockets in this district is still serious, still prejudicial to that promptness which Chief Justice Taft once described as "the essence of justice," then it will be time for the Congress to consider the creation of a fifth judgeship, without the reproach of politics being present to hurt the prestige of the Federal bench, which all of us more than ever desire to guard and preserve.

My attention has been called to an article by Judge Otis in the December 1939 issue of the Journal of the American Judicature Society wherein he refers to the general principle which should govern the creation of district judgeships, in which he said:

They would spurn any effort of any politician to secure the creation of some new judgeship for the mere sake of patronage, although his efforts be buttressed by some specious showing or even by an honest showing of need obviously transient. Packing a district court with unneeded judges is not only an economic waste, it is degrading and humiliating to every serving judge in the district affected.

UNITED STATES CIRCUIT COURT OF APPEALS,
THIRD JUDICIAL CIRCUIT,
Newark, N. J., January 19, 1940.

Chambers of Judge Clark.

Hon. FRED A. HARTLEY, Jr.,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN HARTLEY: I have your letter of January 18, advising me of the pendency before your honorable body of Senate bill 1481, popularly known as the omnibus judiciary bill, and requesting an expression of my views with respect to the inclusion therein of an additional (fifth) district judgeship for the district of New Jersey. I should always, of course, be glad to give you my views on any subject on which you happen to feel that they should be of any value. In this particular instance, however, I feel that I may be entitled to speak for two reasons. For 13 years I was a United States district judge for the district of New Jersey, the last 7 years of which I was the senior judge of the district. During that period, as I sat in Newark, the busiest place in the district, it happened that I tried, it is fair to say, in the neighborhood of three-eighths of the cases and should therefore be familiar with conditions. For the last 18 months I have been a member of the Circuit Court of Appeals for the Third Circuit, and in accordance with an act approved on August 7, 1939, it is now the duty of the circuit judges to organize themselves as a council for the purpose of directing the administration of the business of the district courts. In that capacity, I am a member of the subcommittee appointed by the chief judge, Judge Biggs, which conferred with the district judges of the district of New Jersey with respect to the condition of their calendars.

I am sure that you will agree with the general principle which should govern the creation of district judgeships. It has been well expressed by Judge Otis in an interesting article in the December 1939 issue of the Journal of the American Judicature Society, of which I happen to be a member, at page 151:

"They would spurn any effort of any politician to secure the creation of some new judgeship for the mere sake of patronage, although his efforts be buttressed by some specious showing or

even by an honest showing of a need obviously transient. Packing a district court with unneeded judges is not only an economic waste, it is degrading and humiliating to every serving judge in the district affected. Responsible statesmen will welcome a measuring stick, if one can be devised, by the application of which to work to be done in any district it can be determined whether a new judge is needed."

It seems to me there has been a notable failure to apply that principle to the current problem in New Jersey. You will understand it is not either my desire or my place to do more than recite facts. The inferences therefrom, if any, must be made by the members of your honorable body.

I shall detail the specific efforts to increase the number of district judgeships in New Jersey.

(1) They began in February 1932. The late Judge Runyon was appointed under a commission for his lifetime. Upon his death the Congress created a new permanent position, despite a letter from me to Senator NORRIS, chairman of the Judiciary Committee, as senior judge, opposing such permanent creation. I enclose copy of that letter, dated February 3, 1932.

(2) In June 1937 the district judges of New Jersey unanimously disapproved the creation of a fifth judgeship in a letter dated June 3, 1937, to Mr. Joseph B. Keenan, assistant to the Attorney General. I enclose a copy of that letter.

(3) In spite of this disapproval, the Attorney General, without further correspondence, recommended a fifth district judgeship to the judicial conference.

(4) Not one of the district judges was requested to give his views by the judicial conference or New Jersey's representative therein, Judge J. Warren Davis.

(5) On February 24 and 25, 1938, hearings were held before a subcommittee of the Committee of the Judiciary of the Senate, Seventy-fifth Congress, third session, on S. 3233. The chairman of the judiciary committee of the Federal Bar Association and the chairman of the same committee of the New Jersey State Bar Association appeared and emphatically disapproved the creation of a fifth judgeship (Hearings, pp. 187–191). I am sure a copy of those hearings is available to you.

(6) The President promoted me to the Circuit Court of Appeals for the Third Circuit and I was sworn in on July 5, 1938. In answer to an inquiry from Senator NEELY, of the Senate Judiciary Committee, the remaining three district judges for the district of New Jersey, without notice to me, reversed their previous stand in a letter of March 15, 1939. This letter is vague and general in character and contains figures that, in my opinion, are not entirely accurate. The original must be in the files of the Senate Judiciary Committee.

(7) No member of the Senate Judiciary Committee communicated with me.

(8) The Attorney General again recommended the inclusion of a fifth district judgeship in the omnibus bill.

(9) Judge Biggs, our representative of the third circuit at the judicial conference, requested my views with respect to an additional district judgeship for New Jersey. I told him I opposed it, and I am sure he so reported it to the conference. No other member of that conference communicated with me, and the conference recommended the creation of such a judgeship.

(10) The Council of Circuit Judges was organized pursuant to the act approved on August 7, 1939, and a resolution calling attention to the vacancy which had existed for 17 months in the United States District Court for the District of New Jersey was passed and forwarded to the Attorney General. I enclose copy of that resolution.

(11) That vacancy was filled by the appointment of Judge Thomas G. Walker, who was sworn in on December 28, 1939.

(12) Upon the demand of the Council of Circuit Judges the district judges submitted a summary of every case pending in the district of New Jersey. This summary is too bulky for enclosure and so detailed that it would have to be explained to your honorable body. Generally speaking, however, it indicates, first, that the listing of many of the cases as current is due to archaic methods in the clerk's office; and, second, that even the three judges now sitting in the district of New Jersey have made considerable progress toward coming abreast of their work.

(13) Judge Walker, the newly appointed judge, began the trial of his first case exactly 1 month from the date of his appointment. That was because on the supposedly congested calendar no cases were ready for trial.

(14) The calendar of the Circuit Court of Appeals for the Third Circuit is, I am pleased to say, now actually current. As we have five judges to rotate for three places, I could quite easily be assigned to the district of New Jersey for a period sufficient to enable me to bring their calendars up to date in the next 3 months.

I conclude from these recitals that the district of New Jersey has never and does not now need more than four judges, and that to add a fifth judge in a district where there has been a vacancy for 17 months would be unwise and utterly impossible of any public explanation. I do not happen to know Chairman SUMNERS and Senior Minority Member MICHENER, but I have had some correspondence with both of them and have followed their public careers with great admiration. I should be only too pleased, therefore, to either write or talk with them if they should be inclined.

Sincerely yours,

WILLIAM CLARK.

JUNE 3, 1937.

Hon. JOSEPH B. KEENAN,
The Assistant to the Attorney General,
Washington, D. C.

DEAR MR. KEENAN: In reply to your letter addressed to the several judges of this court requesting our views as to Senate bill No. 2484, we met in conference today on the subject, and after giving full consideration to the conditions existing in the district came to the conclusion that we cannot favor the passage of this measure.

Sincerely yours,

WILLIAM CLARK,
GUY L. FAKE,
JOHN BOYD AVIS,
PHILLIP FORMAN,
Judges.

NOVEMBER 13, 1939.

Hon. FRANK MURPHY,
The Attorney General,
Washington, D. C.:

Resolved, That the examination by this council of the state of the business of the District Court of the District of New Jersey discloses a condition of congestion seriously affecting the interests of litigants, which condition, in the opinion of the council, has largely resulted from the fact that a vacancy in the office of district judge in that district has remained unfilled since July 5, 1938.

COUNCIL OF CIRCUIT JUDGES OF THE THIRD CIRCUIT.

Mr. LEWIS of Colorado. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

EXTENSION OF REMARKS

Mr. WHITTINGTON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein an address I delivered before the National Rivers and Harbors Congress today.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. WHITTINGTON. Mr. Speaker, I ask unanimous consent to extend my remarks and include an address I delivered before the Mississippi Valley Flood Control Association on yesterday, March 13.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

APPOINTMENT OF ADDITIONAL DISTRICT AND CIRCUIT JUDGES

Mr. WALTER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 7079) to provide for the appointment of additional district and circuit judges.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 7079, with Mr. DUNCAN in the chair.

The Clerk read the title of the bill.

Without objection, the first reading of the bill was dispensed with.

Mr. WALTER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, as my distinguished friend from Michigan [Mr. MICHENER] has told you, this measure was reported unanimously by the Committee on the Judiciary. Because there has been an attack made on just one provision of the bill, I will address my remarks to that particular provision. I am quite certain that my distinguished friend from New Jersey [Mr. KEAN] did not want to create the impression that the Committee on the Judiciary was playing politics in making the recommendation that it made in this matter, but certainly he has done that very thing. I want to say to him that Chief Justice Hughes is the last person in the world I would accuse of making a recommendation that would be of benefit to the majority party. The recommendations that the Judiciary Committee has made are all recommendations made by the judicial conference, of which the Chief Justice of the Supreme Court of the United States is chairman.

I know what is back of the opposition to the creation of a new judgeship for the State of New Jersey, and I got it from the gentleman who has been supplying the gentleman from New Jersey [Mr. KEAN] with his information. Mr. Justice Clark, of the circuit court of appeals, has stated in my presence that he is opposed to an additional judge for the State of New Jersey, because he does not want Franklin D. Roosevelt to name him. Now, that is your opposition, and it comes from the lips of a judge appointed by Franklin D. Roosevelt to the circuit court of appeals.

At the present time the circuit court judges in the third district are sitting in the district court of New Jersey in an effort to give to the citizens of that State the sort of justice to which they are entitled. Every one of the circuit court judges is now placed in a position where in a few months he may be required, sitting where he belongs on the circuit court bench, to review a judgment that he, sitting as a district court judge, rendered. I will say to my distinguished friend from New Jersey [Mr. KEAN] that the Committee on the Judiciary of the House of Representatives does not approve of that practice. We do not believe that district court judges ought to sit in the circuit court, nor do we feel that circuit court judges ought to ever be placed in the embarrassing position where, subconsciously at least, they may be hesitant in overruling the judgment of one of their colleagues.

Mr. KEAN. Mr. Chairman, will the gentleman yield?

Mr. WALTER. Not at this time. I will yield in a moment.

As far as the quarrel that the gentleman from New Jersey has mentioned between the Democratic leader of the State of New Jersey and one of the Senators is concerned, I know nothing about it and care less.

Mr. HART. May I interpolate there?

Mr. WALTER. In just a moment. Let me tell the gentleman that wherever he got his figures as to the condition of the docket in New Jersey, they are entirely erroneous. According to the report that came from the Attorney General, there were pending on July 1, 1938, 1,015 cases in the State of New Jersey.

Mr. KEAN. One thousand three hundred and thirty-nine, I have.

Mr. WALTER. They were criminal cases. Just recently the Assistant Attorney General in charge of the Criminal Division of the Department of Justice informed me that cases arising from violation of the income-tax laws were continued because they could not get a judge to try them, and witnesses had been subpenaed and were in court at Camden, waiting since October for those cases to be heard. Certainly that does not seem like good economy to me. I say that because the gentleman from New Jersey [Mr. KEAN] has stressed the iniquitous spending of the New Deal in connection with this measure.

I call attention to this fact, that it does not cost the taxpayers of the United States $20,000 a year for judges' salaries, but the salary of a judge is $10,000. In addition to this provision in the bill being recommended by the judicial conference, it was recommended by the Attorney General of the United States. There is no provision in this bill that was not recommended by both the judicial conference and the Attorney General.

I certainly feel that our committee in carefully following out our policy of accepting the recommendations of the conference as being advisory and merely making the recommendations that the hearings disclose are necessary, has not departed in the recommendations in this bill from that policy.

Mr. Chairman, I yield myself 5 additional minutes.

Mr. HART. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield.

Mr. HART. Permit me to state that in the course of his remarks the gentleman stated that he knew nothing about any arrangement between the Democratic leader of the State of New Jersey and the senior Senator from that State.

Mr. WALTER. I did not say "arrangement"; I said "controversy."

Mr. HART. It was referred to in the prepared speech of the gentleman from New Jersey. I merely want to advise the gentleman and advise the committee that the gentleman from New Jersey knows nothing whatsoever about it either.

Mr. KEAN. I know nothing of the kind, but I do read the newspapers.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield.

Mr. COOPER. Will the gentleman kindly give the Committee some explanation with respect to the proviso appearing on page 2 of the bill?

Mr. WALTER. I may say to the gentleman from Tennessee that this proviso makes all of the judgeships temporary so that upon the death, resignation, or removal of any of the present judges a vacancy would not automatically be created. The subcommittee of which I am chairman feels that we ought to be hesitant in the creation of permanent judgeships. Population shifts, business shifts, and we are certainly not in any position today to foresee the condition of a court calendar even a year hence. We therefore felt that all of these judgeships ought to be temporary.

Mr. McLAUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield.

Mr. McLAUGHLIN. As a member of the Judiciary Committee and as a resident and a member of the bar in the eighth judicial circuit of the United States, I am familiar with the judicial situation in that circuit, as shown by reports and by showings made by the presiding judge of the circuit court of appeals. The Judiciary Committee has concluded, after consideration of the matter, that two additional judges are needed on the circuit court of appeals of the eighth circuit. I wish the distinguished chairman of the subcommittee would explain, if he has not already done so, that while the bill calls for and carries provision for only one judge in the eighth circuit, a committee amendment will be offered for two judges. Will the distinguished gentleman from Pennsylvania kindly take time at this point to explain briefly the reason for the committee's action?

Mr. WALTER. I shall be pleased to. The reason is that this bill was reported at the last session, and the information we had at that time related to the condition in that circuit as it existed then. At the time the subcommittee reported this bill despite the fact that a recommendation had been made by the judicial conference that there be two additional judges appointed for the eighth circuit they recommended only one because there were three retired judges sitting almost continuously in the eighth circuit. They were men of advanced years. I believe my distinguished colleague, the gentleman from Nebraska, has a statement from the senior circuit judge with respect to the ages and the abilities of these men.

Mr. McLAUGHLIN. The gentleman is correct.

Mr. WALTER. I would very much like to have the gentleman at this point insert in the RECORD the statement to which I referred.

Mr. McLAUGHLIN. I shall be very glad to insert it in the RECORD. My purpose in asking this question was to have brought out the necessity for the additional judge which is recommended by the Judiciary Committee.

The statement referred to follows:

STATEMENT BY JUDGE KIMBROUGH STONE, SENIOR CIRCUIT JUDGE, EIGHTH CIRCUIT

The necessity for two additional circuit judges in the eighth circuit arises from three coacting influences which are (1) increase of work, (2) decrease in number of judges to do the increased work, and (3) method of doing work.

I. INCREASE OF WORK

The increase of work is caused both (a) by increase in number of cases and (b) by increased difficulty in character of cases.

Effects of number of cases and of character of cases on judicial work

While the number of cases in a court has a direct bearing upon the work of the court, because each case must be separately examined and determined, yet the character of the cases is even more important. The difference between the effect of the number

of cases and the effect of the character of cases arises from the time and the effort required to examine a particular case. If a case presents issues on points of law frequently before the court, and has a comparatively small record, it will not require great and extended effort and time to read the record and to decide the issues. If a case presents new, unusual, or difficult law issues or has a long record, it requires, naturally, more effort and time to determine it. Where a case presents both new, unusual, or difficult law issues and also has a long record, the effort and time are of course still greater. Therefore one difficult case or one having a long record, or one having both difficult issues and a long record, may require more effort and time than a dozen of the relatively lighter kind.

Let me illustrate the relative importance of number and of character of cases. All experienced appellate Federal judges know that it is the rare criminal case which requires much effort or time. This is so because the same kind of issues are presented in criminal appeals again and again—therefore the applicable law is familiar and fresh in the judges' minds—and the records are very rarely long. On the other hand, many civil cases present novel issues of law and many have long records.

Next, let us apply the above considerations of number and character of cases to the actual situation in this circuit.

(*a*) *Increase in number of cases*

The increase in number of cases for the fiscal year ending June 30, 1938, was about 8 percent above the average for the preceding 14 years. It was almost 14 percent above the number filed the preceding year. The increase in number of cases for the fiscal year 1939 over the year 1938 was over 7½ percent. There is every reasonable assurance that the number of cases in future years will increase—certainly there is no hope for a sustained decrease.

(*b*) *Increase in difficulty of cases*

The character of civil cases coming before a Federal court of appeals depends upon many factors. One of these factors is the kind of social conditions and businesses in the particular circuit. For example, the second circuit (except for Vermont, being the seaboard States of New York and Connecticut) will have a considerable number of admiralty cases which can be rather easily disposed of, because the law is settled and the records not exceedingly long. On the other hand, the eighth circuit is located in the middle of the country, with both large rural areas and also with large cities therein. This results in a wide diversity of kinds of civil cases coming on appeal in this circuit. This diversity is convincingly shown by the fact that in 1938 over 47 percent of the cases filed in this court were not susceptible of classification under the rather detailed table of classes (15 classes) devised by the Department of Justice—this large percentage of cases had to be placed in the catch-all class, called "Miscellaneous." In 1939 the "miscellaneous" cases were almost 48 percent of the total cases, there being 17 classes.

(a) Effect of legislation: Another factor is recent legislation by Congress. Whenever Congress enacts a statute affecting many people in their mode of life or business, the natural result is an increase in litigation. First, there come attacks upon the validity of the act. If the act is sustained by the Supreme Court, there follows an extended period of tests as to the proper construction of and as to the application of the act. In the past few years Congress has enacted a more-than-usual number of such statutes, which are noticeably increasing the work of the court of appeals or of the judges therein. Examples of these are the creation of various administrative boards, the Chandler Bankruptcy Act, the new rules governing trials in district courts (authorized by Congress), and the act requiring three judges (one of whom must be a circuit judge) in all district-court cases attacking the validity of an act of Congress.

Administrative boards: The act creating the various administrative boards require direct reviews or enforcement of board orders to be brought direct in the proper circuit court of appeals. The action of these new administrative agencies is in new legal fields where there is little or no precedent, and, therefore, where a very considerable burden is placed upon the courts of appeals in trying to construe and apply these new laws so as to carry out the intention of Congress.

In addition to this the records in these review proceedings are nearly always very large. Rarely are they as little as 1,000 pages (except in reviews coming from the Board of Tax Appeals). I have on my desk now 1 such record of more than 4,000 pages. I am informed that 2 such reviews have been recently filed in this court wherein the records will exceed 20,000 pages in each case.

In most of these cases one point always urged is the sufficiency of the evidence to justify the findings and order of the board or commission. Such an issue can be determined only by a careful reading of the entire record.

Last year, 20 percent of the total cases filed in this court were reviews of administrative boards or commissions.

Chandler Bankruptcy Act: This new act (approved June 22, 1938, effective September 22, 1938) makes numerous changes in the Bankruptcy Act as theretofore existing. There can be no question but that these changes will result in much litigation extending over years until these changed provisions have received judicial interpretation.

In addition to this, the Chandler Act makes one change which is already being reflected in increasing litigation in the courts of appeals. Before the Chandler Act, appeals in bankruptcy matters were allowable by the district courts as of right only in certain described instances (secs. 24 and 25 of the act, secs. 47 and 48 U. S. C. A., title 11). In all other instances, allowance of such appeals was within the discretion of the courts of appeals and many appeals were denied. The Chandler Act gives appeals as of right except in the limited class of cases where the amount involved is $500 or less. Obviously, the number of appeals is being and will be increased.

New rules: The broad sweeping scope of these rules is stated (rule 1) as governing the procedure in the district courts "in all suits of a civil nature," with certain exceptions set out in rule 81. They make drastic changes in very many phases of procedure from the commencement of an action through to an appeal and also as to some phases of appellate procedure. Any experienced lawyer knows that there will be hundreds of appeals involving construction of these rules. Such result has followed the introduction of every code in a State. This effect is being felt already and will continue for many years—resulting in a definite increase of the number of appeals and of the work in the courts of appeals.

Three-judge cases: The act of August 24, 1937 (50 Stat. 752, U S. C. A., title 28, sec. 280a) requires three judges—at least one of whom must be a circuit judge—to sit in all injunction cases involving constitutionality of acts of Congress. Cases under this act are not numerous but they are highly important and usually involve extended hearings for taking evidence. Each such case takes at least one circuit judge away from his regular appellate court duties, usually for some time, thus interfering with his disposition of appellate business.

(b) *Erie Railroad Co.* v. *Tompkins* (304 U. S. 64): This decision (April 25, 1938) has decidedly increased the work of the courts of appeals in circuits having several States—this circuit has seven States. Theretofore many appeals involved applications of the so-called general law (defined by Mr. Justice Story in *Swift* v. *Tyson* (16 Pet. 1) in 1842). In the nearly 100 years between the Swift case and the Erie case, this general law as to many recurring situations had been fairly well defined and therefore was not especially difficult of statement or application. Of course, no matter in what State an appeal might arise, the rule was the same. The Erie case has reversed all of that. The general law has, at least as to substantive law, disappeared. Now the same issue (formerly subject to general law and governed by one rule) may come up in seven cases—one from each of the seven States in this circuit—and, instead of the easy statement and application of one rule to all, we must examine the law separately as to each case so as to ascertain and apply the law of the particular State from which the case came. Thus, until the entire field formerly covered by this general law is settled, the work on this character of appeals may be multiplied seven times because we have seven States in this circuit. It is certain that our work of this kind will be affected every year for a number of years.

(c) Generally: In outlining the above particular matters which increase the work of the court of appeals of this circuit, I have not tried to mention every such consideration but only such as are rather outstanding. There are others. One of these only will be mentioned. While the number of appeals increases, the number of criminal appeals decreases. As said hereinbefore, criminal cases are, as a class, less difficult of examination and determination. Last year (fiscal 1939) the criminal appeals in this circuit were less than one-third of the average for the preceding 4 years. Criminal appeals have tended to fall off since the criminal-appeal rules were put in force by the Supreme Court in 1934. Those rules have much discouraged criminal appeals which were frivolous or for delay. The situation is that the less meritorious, and therefore easily disposed of, criminal appeals are disappearing, while the total number of all kinds of appeals and reviews is increasing. The result is that a hundred appeals today require decidedly more time and effort than the same number did a few years ago.

The actual result is that the work of this court has materially increased in the last few years.

II. DECREASE IN JUDGES

In the past few years this court has been able to keep up with this additional work only because of the fortunate circumstance that we had additional temporary help. This help came through the valuable assistance of three experienced and able retired circuit judges. Judge Wilbur F. Booth retired on January 1, 1932; Judge Arba S. Van Valkenburgh on May 1, 1933; Judge Charles B. Faris on December 1, 1935.

We have now lost most of this assistance. Judge Faris died December 19, 1938. Judge Booth has not sat since September 1938, and will certainly not sit again because of defective hearing and other serious physical ailments—he will be 79 years old next August. Only Judge Van Valkenburgh remains. He does an excellent quality of work, but sits only from one-third to one-half as much as a single active judge. How much longer he will want to help is problematical, as he will be 78 years old next August and is not in the best of physical health.

III. METHOD OF DOING WORK

(a) Choice of method: Wherever a court is made up of more than one judge, and where more than one must sit in every case, there is a choice of method which affects both the rights of the litigants and speed of the work, and therefore the number of cases which can be disposed of within any given period of time. This choice is between doing the work properly or doing it quickly.

The same judges can turn out much more work if they want to sacrifice good, thorough work to speed. Some courts do just this

thing. For example, there are courts of three or more judges where, at the adjournment of court for the day, the judges talk over for an hour or more the three to six cases heard that day. They reach a decision in each case, and the cases are assigned for opinions. Each judge then writes the opinions assigned to him. By the time these opinions get to the other judges (who have been busy writing the other opinions assigned to them) these other judges have more or less hazy remembrance of the cases they do not write. If an opinion reads well, they concur without more. Such a method results, in essence, in a one-man decision. By this method more cases are disposed of, but the litigants have not had their rights, because they have really not had the mature, careful consideration of each of the judges who sat. Thus the substantial rights of all of the litigants have been sacrificed for the sole end of speed.

Our method of work: The act of Congress creating the circuit courts of appeals provides that each of such courts "shall consist of three judges" (U. S. C. A., title 28, sec. 212). This court has always construed this language to mean that Congress would not have required three judges unless it intended that litigants should have the careful consideration and determination of each one of the three judges and that the judgment of the court should be the result of the real work of three men.

Our entire method is designed solely to get the careful consideration of each judge and therethrough to have every judgment of this court represent the best thought which three men—not just the thought of the one judge who might write the opinion—can bring to bear. To secure this result—sought by Congress—we have evolved the following method:

Our unit of work is our week during which the same three judges usually sit. (1) At the end of each day there is an informal discussion of the cases heard that day. This discussion has two puposes: First, to ascertain if the decision in any case is so clear that it needs no further consideration (this rarely occurs); and, second, to fix the oral argument in our minds. (2) Next, each judge independently investigates each case—reading the record and briefs—and prepares his written memorandum thereon. (3) When all three judges have prepared such memorandum, a conference is held. At this conference memoranda are read and there is a full discussion as to how each case shall be decided and as to the grounds for each decision. (4) The cases are then, for the first time, assigned for opinions—usually such assignments are made to the judge who seems to have the best and clearest grasp of a particular case, as shown by his memorandum and discussion during conference.

The above method absolutely secures the independent thought and investigation of each judge. These memoranda are usually quite complete, and frequently are extended discussions of every point in the case necessary to be decided—I have one now on my desk of 24 typewritten pages of legal cap paper. Thus when the three judges gather for conference, each is thoroughly informed and prepared on each case and, therefore, can discuss it intelligently. The result is that every decision is the product of three minds which have investigated, separately, and thereafter discussed together every point presented by counsel. Through years of experience, this is the best method we have been able to develop to put into the decision the informed judgment of every judge who sat—a result intended by Congress and, therefore, one to which the litigants are entitled.

Clearly, this method involves an enormous amount of work. We could reduce our work by two-thirds if only the one judge who wrote the opinion made this thorough investigation. Also, opinions could be gotten out faster and more cases disposed of if we did not do the work this way. But such gain in dispatch of business would be at the sacrifice of good work. When Congress required three judges, it did not intend that two of them should be mere "yes men" and figureheads.

We have regarded it as our first and great duty to be as near right as possible. This is the basis of our method.

IV. NEED FOR TWO ADDITIONAL JUDGES

The net result of all of the above is that the court of appeals of this circuit has, for the past few years, had more work than the five active judges, alone, could possibly have done; that this work has been kept up to date only because of the help of the three retired circuit judges and, later, by use of district judges. The help from retired circuit judges has now, in large part, finally ceased. Either the docket must fall behind, district judges must be used, or the court must have additional circuit judges to help do the work. The necessary manpower can come only from one of two sources: By use of district judges on the court or by additional circuit judges.

Use of district judges: There has been substantial objection by the bar to having the determination of appeals participated in by trial judges. This is not the place to discuss the advantages or disadvantages of such practice, but I merely call attention to this attitude of the bar as an existing fact.

A more important thing is the practical situation in the circuit. That situation is that the district judges in this circuit have all they can do to look after the work in their own district courts, and some of them are overburdened. To place upon them the further work of service on the court of appeals is obviously unfair to them and to the litigants in their courts. While it may be better to have some districts fall behind rather than to have the court of appeals fall behind, yet this is but a choice between two evils, neither of which should be permitted and both of which can be avoided by the simple expedient of increasing the manpower of the court of appeals itself.

I have been a member of this court of appeals for more than 23 years and the senior judge for almost half of that time. During that period I think I have gained experience which is useful in estimating the situation of the appeal litigation in the circuit and in gaging the man-force necessary to take proper care of that litigation. All of the present judges work hard and intelligently. They cannot do more than they are doing. I am certain that the court needs these two additional judges. I hope the Congress will see its way to provide them during this session so that the work will not fall behind or the district courts be badly affected; either result is bound to affect litigants harmfully.

I will be happy to aid in any way in further understanding our problems.

Mr. WALTER. This statement explains very clearly the situation. The work was kept up to date because these three retired judges served and later by also using the services of a retired district-court judge. The help from the retired circuit judges has ceased. One of these judges has died, another is 79 years of age and very hard of hearing from what I understand, and the third has recently been stricken by a serious ailment. Since the committee reported the bill, therefore, the situation has changed. The eighth circuit is now deprived of the services of the three retired circuit judges and the service of one district judge.

Mr. McLAUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield.

Mr. McLAUGHLIN. The Committee on the Judiciary is unanimous in its approval of the committee amendment providing two additional judges for the eighth circuit rather than one as set forth in the bill.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield.

Mr. MICHENER. Right in this connection, when the Committee on the Judiciary reported the bill out last July it did not include two judges for the eighth circuit because some gentleman from Nebraska at that time felt that possibly that was not necessary. The judicial conference, however, did make that recommendation.

Mr. WALTER. That is right, the judicial conference made the recommendation, but our subcommittee felt that in view of the fact there were four retired judges sitting we would see whether or not they could get along with just one additional judge.

Mr. MICHENER. That is just one reason why we should pay attention to the judicial conference. The judges there knew of the health of these men, they knew the work there was to do, they knew their abilities, and they recommended this.

Mr. McLAUGHLIN. Of course, the subcommittee and the full committee have taken into account the fact that developments subsequent to the recommendation of the judicial conference make necessary the additional judge called for in the committee's amendment.

Mr. WALTER. I may say to the gentleman that the judge who will make the recommendations this year is the judge who furnished us with the figures showing the absolute necessity for two judges.

Mr. McLAUGHLIN. That is Justice Stone, the presiding judge?

Mr. WALTER. Yes.

[Here the gavel fell.]

Mr. GUYER of Kansas. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. GWYNNE].

Mr. GWYNNE. Mr. Chairman, this bill provides for two additional circuit judges, five district judges. One circuit judge in the sixth circuit is included. I take it there is no question about that particular circuit judge. The bill also provides for an additional circuit judge in the eighth district. The circumstances of that situation have been explained. The committee will offer an amendment providing for an additional circuit judge, which amendment should be supported, and I hope will be agreed to.

The five district judges have been recommended by the judicial conference; they have been recommended by the Attorney General and have been considered carefully by the subcommittee which unanimously recommended them to the full committee, and the full committee offers this bill. I

know there is some difficulty about the judgeship in New Jersey, but just what the political situation is there, I am sure I do not know.

Mr. THOMAS of New Jersey. Will the gentleman yield?

Mr. GWYNNE. I yield to the gentleman from New Jersey.

Mr. THOMAS of New Jersey. Will the gentleman tell us who in New Jersey has recommended this additional judgeship?

Mr. WALTER. Will the gentleman yield so that I may answer that question?

Mr. GWYNNE. I yield to the gentleman from Pennsylvania.

Mr. WALTER. Every one of the district court judges in the State of New Jersey and in addition thereto all of the circuit court judges in the circuit in which that State is located. The only opposition comes from those people who do not want to see a Democrat appointed as a district judge in that State.

Mr. THOMAS of New Jersey. May I say that I have yet to get one letter from any judge in New Jersey or from any lawyer in New Jersey or from any organization in New Jersey advocating the need for a new judgeship there, but I have received a lot of mail in opposition.

Mr. GWNNE. May I say to the gentleman that we have applied to that situation the usual test that must be applied by any committee considering a proposition of that character. In spite of what the gentleman says, that judgeship has been recommended by the judicial conference, upon which his circuit is represented; it has been recommended by the Attorney General and it has been recommended by the Committee on the Judiciary.

Mr. Chairman, some amendments will be offered to provide an additional judgeship in Oklahoma and, I understand, an additional judgeship in Florida. I do not believe those amendments should be agreed to at this time. I will not go into that particular situation at present, but I hope when either amendment is offered I may have the opportunity to oppose it.

Mr. Chairman, the Members should bear in mind that the responsibility for providing sufficient personnel and sufficient facilities for these courts is not one that devolves upon the judicial conference but is a responsibility of this Congress. Furthermore, may I remind the Members of the House that the entire expense of operating the Federal judiciary is less than one-fifth of 1 percent of the total expense of the Federal Government. Of course, that is no excuse for creating judgeships that may not be needed.

Reference has been made to a report by Judge Merrill E. Otis. Judge Otis considered the work done in the 10 largest districts of America, and I refer to the 10 districts having the greatest amount of litigation. He considered their record in 1933, which was the peak year, and arrived at the conclusion from the figures studied that the average district judge should terminate in a year 400 criminal cases, 200 civil cases in which the United States is a party, and 200 other civil cases. If you were to apply this formula to the work of many district judges, you would find they are not doing that much work, and the reason is that many of them do not have the work to do. I remind you of this because I hope you will retain in this bill the amendment put in by the subcommittee, and agreed to by the full committee, appearing on page 2, providing that the first vacancy occurring in the office of district judge in each of these districts shall not be filled.

Mr. Chairman, I believe that much could be done toward the efficient and economical administration of justice in this country if some revision were made in the boundaries of the various Federal districts and perhaps in the circuits. There was created during the last session of Congress the Office of Administrator for the Courts. When we legislate in the future on these subjects, we will have more information about what is really needed. I trust this amendment will be agreed to because it will provide this House with the opportunity from time to time to consider the needs of the various districts and permit it to legislate accordingly. [Applause.]

[Here the gavel fell.]

Mr. WALTER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. CELLER].

Mr. CELLER. Mr. Chairman, may I say at the outset that this bill has been very carefully considered by the members of the Committee on the Judiciary. It follows the recommendations not only of the Attorney General but of the judicial conference. The judicial conference is composed of various circuit judges, presided over by Chief Justice Hughes, who meet annually to determine the needs of the various jurisdictions. Their recommendations are made after mature deliberation, and we ought to follow their recommendations. They have asked us for the additional judgeships which we have embodied in this bill. We indeed would be derelict in our duty if we would not follow that expert advice. I personally, however, deplore the provision in the bill—and I only speak personally, I do not speak for the committee—which makes these judgeships temporary. I do not believe we should make these judgeships temporary because in almost every instance during my almost 18 years in this House whenever we have added these temporary features to a bill, the temporary judgeships were subsequently always made permanent.

Let me recite a rather anomalous situation that has developed in my jurisdiction in New York. In the last session of this Congress we passed my bill to provide that the temporary judgeship in the southern district of New York, created in 1938, be made permanent. In 1938 we had provided for one additional judgeship, but we provided that this judge should be only temporarily assigned, that, in other words, the first vacancy that occurred in the southern district was not to be filled. The situation in New York is such that we need that judge beyond peradventure of a doubt. Judge Patterson was elevated to the circuit court of appeals, and there was, therefore, a vacancy, but the President was deprived of right to appoint his successor because of the condition which we appended to the original bill in 1938 precluding the right to fill that vacancy, and because thereof we in New York have suffered. He cannot have an appointee in Judge Patterson's place. My bill made the temporary judgeship in New York permanent. But my bill lags in the Senate.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Pennsylvania.

Mr. WALTER. We repealed that condition.

Mr. CELLER. I am coming to that.

In the last session we provided that this temporary judgeship in New York might be filled, but this only proves my point that in almost every instance where we have provided the temporary feature we have obliterated the temporary feature on some subsequent occasion and made the judgeship permanent. If we would be forthright with ourselves, we would eliminate this temporary feature. We merely include it in the bill for the sake of getting a few votes and for the sake of the argument that it is only a temporary judgeship. For that reason, I do hope that this provision will not remain in the bill. I shall not offer such an amendment because I want to stand by my committee, but I am giving you this opinion for whatever it may be worth.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Pennsylvania.

Mr. WALTER. I should like to call the attention of the gentleman from Michigan [Mr. MICHENER] to the fact that our former colleague the gentleman from Tennessee, Mr. Chandler, spent several years in making a study of the advisability of offering a bill redistricting the entire United States, and, but for the fact that he has left this body, in all probability we would be considering such a recommendation. I believe the administrative officer will very shortly submit a report advocating the changing of the districts in the United States.

Mr. MICHENER. That is one reason no one should vote against this amendment.

Mr. CELLER. I have given you my opinion for what it may be worth. I shall offer no amendment. I still believe, despite what both the gentlemen have indicated, that we should not put these provisos in the bill.

Now, as to New York, I wish to say "Justice delayed is justice denied."

As far as New York is concerned, there is great delay in the trial of all cases. There has been a tremendous accumu-

lation of all manners and kinds of cases. For this reason we have asked for the additional judgeship in New York, as recommended by the Attorney General and by the Judicial Conference.

For example, we have cases in New York that take 3 years to try. There is, for example, the Aluminum Trust case, which has endured thus far for over a year and a half and, I am informed, will continue before Judge Caffey for another year and a half, so that judge is almost useless to us as far as all other cases, civil and criminal, are concerned. Judge Woolsey is intermittently ill. There is a motion-picture case about to be tried in the southern district of New York against the motion-picture combine that will take over a year to try. Therefore three judges will be hors de combat, as it were; they will be taken out of the average run of court cases. New York always has a situation of that sort.

In New York we try more admiralty cases than are tried in all the other jurisdictions. We try more patent and copyright cases in New York than are tried in all other districts. We have a plethora of alcohol-tax cases. In many of these cases the defendants number as many as 50, and sometimes more. The environs of New York City are veritable centers for the manufacture of illicit alcohol. Alcohol, non-tax-paid, is manufactured in Greater New York by bootleggers, especially since we increased the internal-revenue tax, to a much greater degree than during prohibition. As a result, a vast number of liquor-tax cases have accumulated. These bootleggers and tax evaders, out on bail, are free to recommit their crimes. For this reason we need these judges to get after these culprits and bring them to book.

I could go on and indicate something of the many fake insurance cases, the income-tax cases, and the Railway Employees' Liability Act cases. Under the Railway Employees' Liability Act most of the cases which could be brought in other States gravitate to New York. Employees are injured in Pennsylvania or Maine or Vermont. They all bring their suits in New York because practically every railroad has an office in New York, and thus jurisdiction is easily assured.

They do this for the reason that New York juries give large verdicts, verdicts which are larger in amount than the verdicts in other parts of the country. So we have a tremendous number of these cases that do not rightfully belong to us.

It is unnecessary to dwell on the denial of justice resulting when calendars of courts are congested and judges overworked. Meritorious claims are compromised on harsh terms when litigants of ordinary circumstances are confronted with interminable delays before a trial can be had and an appeal heard. A speedy trial is a constitutional right of one accused of crime. The southern district handled, for example, during the fiscal year 1938 on the general-motion calendar 4,588 motions, 2,851 bankruptcy motions, and 2,211 discharges and compositions in bankruptcy. From July 1, 1938, to March 1939 there were 4,199 general motions, 2,188 bankruptcy motions, and 1,352 discharges and compositions.

During the same period there was an avalanche of naturalization cases. There were 16,697 petitions for naturalizations. The court is woefully behind in handling naturalization proceedings. Applicants ready and anxious for citizenship must wait 2 years at times after filing their applications for final papers, due to the tremendous amount of work the judges are called upon to perform, and which superabundance of labor precludes appropriate asssignments to the naturalization part.

It is rather anomalous that we hear frequently in the House many outcrys against the tardiness of aliens in embracing citizenship ,and then we have hesitation to appoint additional judges to take care of these aliens pleading for citizenship.

Judge Knox, an able, fearless, and hard-working jurist, testified before the Senate Judiciary Committee that the criminal docket is loaded with cases that cannot be tried for many months. We have a courageous and energetic United States attorney—Mr. Cahill. He has struck at criminality in our district some hard, telling blows, so that New York is no longer a safe place for crooks and malefactors. We stay his hand if we do not cooperate by supplying judges to try the cases he prepares. We cannot bring criminals to book without judges.

At the present time one judge assigned to the criminal part is trying the McKesson-Robbins case, with many defendants. That case will take months to try. There are many such cases awaiting trial. There are scores of mail-fraud cases awaiting trial. There are not enough judges to go around. There are many fake insurance claim proceedings involving physicians and lawyers. These are important trials, involving bogus claims on disability policies. These cases will undoubtedly result in verdicts of guilt. They should be tried speedily. They cannot unless we help.

How about the many cases under the Jones Act, where men are injured on ships. These suits might be brought elsewhere, but are attracted to New York because of larger verdicts in New York than are obtained elsewhere.

There are hundreds of reorganizations under 77B. New York is a veritable vortex of such cases—New York, with all its hotels and apartment houses, which are primarily the subjects of reorganizations.

The case load per judge is over 375 cases, more than 1 a day. That load is staggering.

Statistical data for New York's southern district are as follows:

The judicial conference in September 1938 recommended the creation of two additional district judgeships for the southern district of New York.

The State of New York is divided into four districts—eastern, western, northern, and southern.

The southern district comprises two of the counties (New York and Bronx) composing New York City, the Hudson River Valley counties as far north as, but not including, Albany County, as well as Sullivan County, which adjoins Pennsylvania.

There are 11 judges in this district. A twelfth judge was authorized by section 4, paragraph d, of the act of May 31, 1938 (Public Law No. 555), which also contained a provision that the first vacancy occurring in any of the other 11 positions should not be filled. Recently one of the district judges—Judge Patterson—was elevated to the circuit court of appeals, and legislation is needed to permit this vacancy to be filled. Such legislation is recommended.

The number of civil actions filed is growing. It was 2,675 for the year ending June 30, 1937, and 3,235—an increase of almost 600—the following year.

During the past few years there has also been a marked increase in the number of criminal proceedings in this district. In the fiscal year ending June 30, 1936, there were 779 criminal cases filed; in 1937, 920; in 1938, 1,183; and for the first 6 months of the current fiscal year, 581. In addition, during the last 2 years there has been an increase in the number of civil actions filed. The number of pending cases has increased.

Thus, on June 30, 1937, there were 4,059 cases pending; on June 30, 1938, 4,318; and on December 31, 1938, 4,476. This indicates that the judges are unable to keep abreast of the work, because new cases come in faster than the old ones are disposed of.

The dockets are considerably in arrears. As of June 30, 1938, the law dockets were 3 months and the equity dockets 11 months behind. A year previous the condition was much better.

Cases in U. S. District Court for the Southern District of New York, July 1, 1935, to Dec. 31, 1938

	Fiscal year ending June 30, 1936				Fiscal year ending June 30, 1937		
	Pending June 30, 1935	Filed	Terminated	Pending June 30, 1936	Filed	Terminated	Pending June 30, 1937
Private litigation	3,603	2,268	1,963	3,908	1,980	3,028	2,860
Civil cases to which the United States is a party	981	782	845	918	695	897	716
Criminal cases	499	779	787	491	920	928	483
Total, except bankruptcy	5,083	3,829	3,595	5,317	3,595	4,853	4,059
Bankruptcy	2,948	3,038	2,629	3,357	2,908	2,954	3,311
Grand total	8,031	6,867	6,224	8,674	6,503	7,807	7,370
Average cases per judge, this district:							
Civil, except bankruptcy	----------	381	351	----------	243	357	----------
Criminal	----------	97	98	----------	84	84	----------
Average cases per judge, all districts:							
Civil, except bankruptcy	----------	248	261	----------	196	225	----------
Criminal	----------	229	232	----------	215	215	----------

Cases in U. S. District Court for the Southern District of New York, July 1, 1935, to Dec. 31, 1938—Continued

	Fiscal year ending June 30, 1938			6 months ending Dec. 31, 1938		
	Filed	Terminated	Pending June 30, 1938	Filed	Terminated	Pending Dec. 31, 1938
Private litigation	2,392	2,427	2,825	1,057	1,101	2,781
Civil cases to which the United States is a party	846	819	743	502	365	880
Criminal cases	1,183	916	750	581	516	815
Total, except bankruptcy	4,421	4,162	4,318	2,140	1,982	4,476
Bankruptcy	2,983	3,008	3,286	1,293	1,267	3,312
Grand total	7,404	7,170	7,604	3,433	3,249	7,788
Average cases per judge, this district:						
Civil, except bankruptcy	294	295	--------	130	122	--------
Criminal	108	83	--------	48	43	--------
Average cases per judge, all districts:						
Civil, except bankruptcy	183	209	--------	92	92	--------
Criminal	188	189	--------	91	90	--------

Mr. GUYER of Kansas. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. HANCOCK].

Mr. HANCOCK. Mr. Chairman, this bill has the lukewarm support of myself, as well as most of the other members of the Judiciary Committee, I believe.

I am extremely reluctant to vote for a bill increasing the membership of the district courts of the United States. I hate to see the Federal pay roll going up day by day, the pay roll of the Army and the Navy, the classified service, the unclassified service, the permanent part of the Government, the temporary agencies of the Government, and the judiciary itself.

When the prohibition law was repealed we all had reason to believe that the burden on the Federal courts would be considerably lightened. Such has not been the case. During the last 7 or 8 years there has been a very flourishing bankruptcy business in the United States courts, many corporations have been reorganized, a great many new criminal statutes have been placed upon the books, and the various New Deal agencies set up to control business have forced business to go to the courts to fight for their lives. I think the appropriate title for this administration will be "The Era of the More Abundant Strife." At any rate, the litigation in the courts has steadily increased.

We are limited in our knowledge of the needs of the courts almost entirely to the report of the judicial conference, the recommendations of the Attorney General, statements from the various bar associations, and the Representatives in Congress in districts where new judges are requested.

We have an extremely conscientious subcommittee that studied this question, studied the statistics, and reached a conservative conclusion. I have complete confidence in the judgment of the chairman of this subcommittee the gentleman from Pennsylvania [Mr. WALTER] and the ranking Republican on the committee the gentleman from Iowa [Mr. GWYNNE]. I am perfectly willing to abide by their judgment. They have found that these five district judges are necessary. They have specifically recommended against including an extra judge in the State of Oklahoma, and I think when the committee amendment to strike out that item of the bill is reached the House ought to support the committee. I understand that the gentleman from Oklahoma on the committee [Mr. MASSINGALE] has changed his mind about the necessity for this judge. Formerly opposed to an additional judge, he is now to ask that that provision be retained in the bill. I may say, in passing, that the State of Oklahoma now has 4 district judges with a population of a little over 2,000,000. My own northern district of New York has the same population or a little more than the State of Oklahoma, and we get along very nicely with 2 Federal judges. I see no justification whatever for giving Oklahoma five when two can do the business in New York State.

As the gentleman from Michigan has suggested, it is not entirely a matter of population; it is the amount of litigation that should be the determining factor, but it is well to bear in mind that the northern district of New York borders on Canada, and we have many deportation cases in our district court. It is also a manufacturing State, which means we have much patent litigation. It is in the heart of the industrial East, where there is a great deal of litigation caused by diversity of citizenship. I think, as a general rule, an industrial section of the country has more litigation than a rural section, because there is more business.

I hope we will not accept any amendments outside of those recommended by the committee, because their report is the result of very careful study. There is always a temptation for Members of Congress to offer amendments to get additional judges for their own districts, and I hope the House will resist such efforts. There are a number of us who cannot vote for the bill if it is loaded down beyond the committee recommendations.

As I said at the outset, this bill has my unenthusiastic support, and I think that is the general feeling. I am going to vote for it, though with some hesitancy, exactly as the committee have reported it, and I hope it will be the last judgeship bill reported to the Congress for many years to come.

[Here the gavel fell.]

Mr. WALTER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. MARTIN J. KENNEDY].

Mr. MARTIN J. KENNEDY. Mr. Chairman, the Representatives from New York are deeply interested in the pending bill because our district court calendars are growing longer, and the present personnel of the court seems unable to promptly dispose of much urgent business. I would like to see five additional district judges appointed for the Southern District of New York instead of just one as is provided by this bill. I believe we should also have an additional circuit court judge. An increase in the number of judges seems to be the only solution to the problem of crowded calendars and long delays.

It would seem that, year after year, our local district courts are lapsing into a slower pace. They are continually falling behind in the disposition of important business and unless we take action the situation will become unbearable. My colleague the gentleman from New York [Mr. CELLER] spoke about the great amount of work in the southern district. The gentleman mentioned a few big Government cases that are occupying the full time of some of our district judges, and at the rate the judges have been proceeding they will probably take the rest of their lives to try them. The judge assigned in these special cases are very estimable gentlemen, but they are quite old and do not appear to be in any rush to finish the cases.

Many of these cases being prosecuted by the Government and requiring the full time of a judge could and should be tried in other districts. For some reason best known to the Attorney General they are moved into the southern district of New York. As a result, New York is busy doing the work of every other district and its own. Only a few weeks ago another one of our judges was assigned to the Associated Gas case. This case originated up-State New York, but by some agreement it was transferred to our district. This case involves millions of dollars, and you can readily see how this judge will be required to devote practically all of his time to advising with the trustees and hearing the many motions arising out of this litigation.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. MARTIN J. KENNEDY. Yes.

Mr. CELLER. Also, the judicial conference recommended two additional judges, although this bill complies with only half of that request.

Mr. MARTIN J. KENNEDY. I would like to see at least five judges created by this bill. One Member, in speaking today, introduced the subject of politics in connection with this bill. He intimated that it would mean jobs for Democrats.

This is not so, because when the President recently had a vacancy in the circuit court he appointed a Republican and passed over the Democrats on our district bench. We have a senior judge in our jurisdiction who is a Democrat, appointed by Woodrow Wilson, but he finds time to go around delivering speeches condemning not only the administration but everyone connected with it. Certainly there is no politics as far as we New York Democrats are concerned. I hope the Members will give serious thought to this bill and help us create additional facilities in our jurisdiction. I wish all of you gentlemen who are not especially interested, because your State is not to have any judgeships under this bill, will consider the problem of our courts in the southern district and vote favorably, so that my home district may obtain these much-needed additional judges. [Applause.]

Mr. GUYER of Kansas. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. SPRINGER].

Mr. SPRINGER. Mr. Chairman, the bill now before the House has been very carefully considered by the subcommittee of the Committee on the Judiciary, and I desire to take this opportunity to express my appreciation of the ability and integrity of the chairman of the subcommittee, who has handled this particular legislation, the gentleman from Pennsylvania [Mr. WALTER]. In this bill we have provision for one circuit judge in the sixth circuit. That question was determined originally by the subcommittee at the time it considered the bill. An amendment will perhaps be offered by the committee providing for a circuit court judge in the eighth circuit. I propose to vote for it and fully support the committee in that proposed amendment. This bill provides for five additional district judges. There will probably be two amendments, one providing for an additional district judge in Oklahoma and one in the State of Florida. I shall compare briefly for your consideration the question respecting Oklahoma and some of the other States in which we have a less number of judges than they now have in the State of Oklahoma. In the State of Oklahoma, as I understand it, there are now four district judges, who serve a population in that State of approximately two and a third millions of people. I turn to my own State of Indiana, having a population of more than 3,000,000 people and we have in that State two district judges—one in the northern district of Indiana and one in the southern district, both of whom are alert and active in the disposition of the business of the court. Those two district judges, in my own State, take care of and handle the tremendous volume of business in the courts in that State. As I understand, in the State of Oklahoma, they have the two districts with two judges in one district and with one roving judge who sits in the other districts and aids in handling the judicial business in part, at least, in those particular districts. They are abundantly equipped in that State at this particular time, and at the time this bill was considered, my fine colleague the gentleman from Oklahoma [Mr. MASSINGALE] expressly stated before the committee that the extra judge was not needed in that State. Since that time, however, he has stated that he has asserted the well-known prerogative and has changed his mind in that respect. However, the volume of business in the State of Oklahoma, as it appears from the records, fails to justify an additional judge in that State. The four judges there at the present time are certainly able to handle all of the business in that State.

Also, in the State of Florida it is expressly stated, and the subcommittee had a statement before it, and the whole committee had the same statement before it at the particular time it considered this measure, that there was no necessity for an additional judge in the State of Florida.

As I understand, in that State one of the judges has practically reached the age of retirement. That retirement will occur in a short time. That judge will retire and a new judge will be appointed to take his place, and then they will be equipped to handle all the business in the State of Florida. One of the judges, Judge Holland, of Miami, as I understand, has been ill. That is only temporary, and with the new appointment in the not far distant future, they will be well equipped to handle all of the business coming before the Federal courts in the State of Florida.

I propose to support the committee in this matter with respect to the creation of these courts. I am opposed, Mr. Chairman, to the appointment of additional judges where they are not necessary. We have other problems in this country. We have the problem of the unemployed. We have the farmers' problems, which must be solved. The questions which affect labor must be determined, and a just and proper solution made. I am unalterably opposed to the appointment of any additional Federal court judges in districts where they are not absolutely necessary. We can get along without them. [Applause.]

[Here the gavel fell.]

Mr. WALTER. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. EDELSTEIN].

Mr. EDELSTEIN. Mr. Chairman, the gentleman from Indiana [Mr. SPRINGER] has announced his opposition to the appointment of additional judges in districts where they are not necessary. I believe that a careful consideration of the hearings held by the Senate's "special committee to study reorganization of the courts of the United States and reform judicial procedure" on April 17, 1939, would convince him of the necessity for the appointment of an additional judge for the Federal District Court of the Southern District of New York. I come from that district. I have only been a Member of this House for a period of 3 weeks. However, for 29 years I practiced very extensively before the Federal court of that district. From my experience I can affirm without hesitation or qualifications that that district needs the additional judge recommended by the House Judiciary Committee. I am surprised that the committee reported in favor of only one additional judge. I believe that the southern district could easily use five additional judges. I would like to see the time when this will be done.

The southern district of New York is a unique district in our Federal court system. In territorial extent it is one of the smallest. In the size of business that it handles, year in and year out, it is one of the largest. In complexity of cases which come before it, it exceeds any other court. As you all know the southern district of New York has within it the financial capital of the United States, if not of the world. It has jurisdiction in admiralty over the enormous shipping activities carried on in the port of the city of New York. Numerically, it has more district court judges than any other district, but in comparison with the amount of business handled, the number is absolutely inadequate.

Let me point out to the Members of this House in some greater detail the different types of cases which exist in this district in large number and which rarely arise in any of the other districts. In the first place the Antitrust Division of the Department of Justice is instituting most of its very important prosecutions under the Sherman Act in this district. The long heralded prosecution against the motion picture industry is now pending in this district. This case is not one that will be disposed of in a day, a week, a month, or possibly even in a year. Other antimonopoly prosecutions will also be instituted in this district, I understand, whenever there are sufficient facts to lay a proper venue for bringing the suit in the southern district of New York.

Under the Judicial Code citizens of another State residing in New York are given the privilege, when sued by a resident of New York, to remove cases begun in the State courts into the Federal District Court of the Southern District of New York. Most of the corporations whose offices are located in the financial and business sections of New York City have their domicile in some other State. The tremendous amount of litigation which naturally flows from their contracts and their torts provides much of the case load in the southern district. Many of the negligence actions which could well be begun in other jurisdictions are brought in the southern district court. This situation does much to swell the aggregate number of cases on the calendar in the southern district of New York.

I have already referred to the obvious fact that the southern district contains the financial center of this country. In recent years a tremendous number of cases in bankruptcy, which includes 77B proceedings for reorganization of realty corporations and industrial corporations, have been instituted in the southern district of New York. Although these proceedings can be handled somewhat more expeditiously than equity cases, since most of them involve corporations whose assets are in the tens of millions of dollars, the proceeding is likely to continue anywhere from 1 to 3 years. This is in addition to the usual run of bankruptcy cases arising out of ordinary small business.

Finally, let me refer to the condition of the criminal calendar. New York City, because of its close relation to business enterprises, has many cases of use of the mails with intent to defraud. There are also criminal cases which are likely to arise in any metropolitan center of population.

The calendar steadily falls behind. This is in no sense a criticism of any of the hard-working judges who are members of the southern district court. I know that these judges, in an effort to keep up with their work, after sitting on the bench all day—and they do not adjourn on the minute—come back to their offices in the evening and on Saturday afternoons and Sundays to take care of the work which has piled up, to study cases they have heard, and to prepare their decisions and opinions. Nor is it an attack upon the handling of these cases by the United States attorney for that district, who, with his capable assistants, has been solicitous of the constitutional rights of those who have been accused of crime.

The district attorney and his assistants are aware of this distressing condition. They spare no effort to minimize it as much as possible. They work nights, Sundays, and holidays, but if there are not enough judges to hear the cases their endeavors go for naught.

Notwithstanding the strenuous efforts of the judges and the United States attorney for that district, those who are accused of crime and who cannot furnish bail, are being deprived of the right guaranteed to them by the sixth amendment of the Constitution of a speedy trial. They must stay in jail for a considerable period of time, while those who are fortunate enough to raise bail, can walk the streets free. If some of those who are held in jail until tried are found not guilty, there is no redress for the prison term they have served.

Considerations of justice should move this House to provide for an additional judge for the southern district of New York so that these cases of hardship will be eliminated as much as is humanly possible. We can do no less than that at this time. [Applause.]

[Here the gavel fell.]

Mr. GUYER of Kansas. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. VREELAND].

Mr. VREELAND. Mr. Chairman, at the outset I want to say that while I was not a member of the Judiciary Committee at the time this matter was considered, I have since become a member of that committee and I have sufficient confidence in the chairman and members of the subcommittee to go along with their judgment on the measure.

For a minute let us consider, if we may, what brings about the necessity of an additional judge. I speak of New Jersey alone, because as a member of the bar of that State I am fairly familiar with the situation. In these times of stress and economic difficulties that have arisen in the past few years we lawyers—and I include myself in that category—have been inclined to start cases in some instances where we might have tried to settle or perhaps thought twice before we did start the action. As a result, there has been a very great congestion in the calendars of our courts, not only the Federal courts but the State courts. Also there has been considerable increase in bankruptcy, reorganization, criminal, and the many various types of cases that the Federal courts handle. As that calendar has increased, the number of judges have not increased, nor has the staff been increased in the Federal departments. The attorneys general and the assistant district attorneys have not had an increase in their staff, yet there has been an increase in the criminal cases before the Federal courts.

We attorneys know—and perhaps this is an admission out of school that I should not make—that in the rush of business and public life sometimes when the court calendar is made up for the trial day we can find many thousands of excuses why we should not try our case on that particular day, and have it postponed. After all, the court must set a calendar in order to function. When we postpone these cases, sometimes the judges are left without any cases to try on that day, further congesting the list. New Jersey is not any exception. Being as close as it is to the metropolitan section and New York City, our calendar has increased alarmingly. In 1938 we suddenly found a very peculiar situation. With our calendar increasing daily, there was a vacancy created by reason of the elevation of Judge William Clark to the circuit court of appeals. Immediately the powers that be in the State tried to determine who might be the probable or possible successor. Unfortunately, those who would have the choice of naming that person did not agree. I may say, incidentally, that it was in the newspapers, so it is public property. They did not agree for 18 months, during which time the calendar increased daily and the cases were not tried. Because of the clamor of the citizens of our particular section, the civil cases took precedence over the criminal cases and few days could be given for such trials.

At this time I want to commend our assistant United States district attorney, Hubert Harrington—he is a very close friend of mine—for the admirable work he has done in trying to relieve the condition. Working day and night and being able to devote only 1 or 2 days a month to criminal cases, he has kept the calendar down to a minimum, as the figures will show. He tried 327 criminal cases in a period of a year.

Then there was an appointment. Incidentally, during the entire time that there was a disagreement on the appointment of the judge, a special appeal was made for an additional judgeship in New Jersey. No one paid any particular attention to the fact that there was a vacancy which had not been filled. Then, 18 months afterward, after the calendar had piled up for the lack of this one judge, a new man was appointed; and let me say that the ultimate choice was worth waiting the 18 months to have him appointed, because Judge Thomas Walker is one of the finest men I know, a classmate of mine, and will make a good addition to the Federal court.

Mr. THOMAS of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. VREELAND. I yield.

Mr. THOMAS of New Jersey. Is it not true that much of the congestion in New Jersey is due to the vacancy which existed over a period of months?

Mr. VREELAND. Considerably.

Mr. THOMAS of New Jersey. And that just as soon as that vacancy was filled the congestion began to disappear.

Mr. VREELAND. The gentleman is right.

Mr. THOMAS of New Jersey. So there is really no necessity for the additional judgeship in New Jersey such as there was while the vacancy existed.

Mr. VREELAND. I disagree with my colleague from New Jersey on that point. I do not feel that this vacancy should have occurred, but it did occur, unfortunately, and we are advised cases have piled up so that an additional judgeship is necessary to serve our litigants, to take care of the criminal cases that are awaiting trial, and to take care of the interests of the United States Government.

[Here the gavel fell.]

Mr. GUYER of Kansas. Mr. Chairman, I yield 2 additional minutes to the gentleman from New Jersey.

Mr. VREELAND. I am, however, going along with this mainly for the reason that the additional judgeship is temporary. I believe firmly, after the congestion has been relieved and the calendar cleared, four judges can handle the job, just as has always been done.

Mr. HART. Mr. Chairman, will the gentleman yield?

Mr. VREELAND. I yield.

Mr. HART. Answering our good friend and colleague the gentleman from New Jersey [Mr. THOMAS], will the gentleman permit me to read a statement by the presiding judge of the district court with reference to the need for the five judgeships, despite the vacancy?

Mr. VREELAND. I would like to very much, but I have only 1 minute left.

Mr. HART. I appreciate the gentleman's lack of time, but I have a statement from Judge Fake showing why an additional judge is necessary despite the filling of the vacancy.

Mr. VREELAND. I also want to point out, Mr. Chairman, if I may, that while the figures which have been quoted of 3,284 cases pending are staggering, nevertheless 1,804 of these cases are bankruptcy actions. We attorneys know that in bankruptcy the referees handle most of the cases, and, in fact, are not usually heard by the judges.

Mr. KEAN. Mr. Chairman, will the gentleman yield?

Mr. VREELAND. I yield.

Mr. KEAN. The gentleman seems to be using the same figures which were criticized by the able chairman of the committee when I used them. Will the gentleman tell us where he got these figures?

Mr. VREELAND. These figures were sent to me by Administrative Assistant to the Attorney General Thomas D. Quinn.

Mr. WALTER. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. MONRONEY].

Mr. MONRONEY. Mr. Chairman, in this brief time I shall try to explain the Oklahoma judgeship situation.

The impression has been left by certain Members that this is just an afterthought on the part of Oklahoma. I have studied the report of the judicial conference, signed by Chief Justice Hughes, and I find that Oklahoma is just as strongly mentioned therein as is any other State.

Attention has been called to the fact that Indiana requires but two judges, whereas Oklahoma, with a similar population, requires four. Let me remind you that Oklahoma is a new State, and within her borders is approximately one-half of the Indian population of the Nation. Practically all litigation involving Indians must go through the Federal courts, both cases with respect to the person of the Indian as well as to his land and property. Indian land titles present one of the most complex questions of law that any court can be called upon to decide.

In some instances it involves old tribal customs which must be studied. Since the Federal Government has made Oklahoma the home of the Indians and put upon us the duty of trying these cases in the Federal court, our load naturally is heavy.

The 4 Oklahoma judges in 1938 terminated 2,090 cases. Virginia, with a population almost identical with Oklahoma's, has 4 judges and terminated 1,345 cases. Oklahoma terminated 645 cases more than Virginia. Louisiana, with a comparable population and 4 judges, terminated 1,173 cases; in other words, Oklahoma terminated 817 more cases. Tennessee, with a population comparable to Oklahoma and with 4 judges, terminated 1,442 cases; in other words, Oklahoma terminated 548 more cases. The number of cases terminated by the 4 Oklahoma judges was 2,090 against an average for these 3 other States of 1,320 cases. [Applause.]

[Here the gavel fell.]

Mr. GUYER of Kansas. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS of Ohio. Mr. Chairman, practically every Member who has spoken this afternoon on the pending bill is a member of the Committee on the Judiciary. I yield to no one in my respect for the Judiciary Committee, but today we have seen an example of one of the great committees coming in with a bill upon which there has been no unanimity of opinion on the part of the committee for it. I have seen member after member of this great committee take the floor this afternoon and apologetically say he expects to support this measure; but he says he is not completely sold on it. This confirms an opinion that I have had for some time, which is that providing new judgeships and filling them is done without the consideration that such important matters should have.

There are those of us who have been against this judgeship racket for years. Now is the time for us to rally together and beat this poorly prepared measure. Let us remove this uncertainty in the minds of these fine brethren on the Judiciary Committee. Let us take the position that we do not need any more judges until it can be shown conclusively that we need them. So long as such a large number of these splendid fellows do not agree, then it is our duty to act cautiously and vote "no." We have voted many additional judges for New York, but the more judges that are given to New York the more they want. The more you give to Ohio the more they want. There has been no definite or persuasive facts or figures set forth here today that we need more judges any place. I take the position that we do not need these judges. I am a lawyer also and I have practiced a great deal in the United States courts. I have the highest regard for those courts, but there is no use rushing into something when we are not sure of our way.

What we need in connection with the selection of judges is to select better judges. Occasionally men are selected as judges who have seldom ever tried a lawsuit. We have seen a fine example of that in the last year or two when men have been elevated to the Supreme Court, some of whom have never been recognized as practicing lawyers.

Some of these men who have been appointed judges throughout the country also have not been considered as real lawyers. Of course such men cannot dispatch the business of the court. They do not know how to do it. I can give you an illustration of how these courts are loaded down with men who should not have been appointed. I know a man who I think is in the process of being prepared for a place on the Supreme Court, and if anybody wants to ask me who it is I will tell him. I have seen him appointed as counsel for the T. V. A. investigating committee. I have seen him perform that service, just as his master told him to perform. Was he rewarded for his tractable and servile service? I can only suggest that he received an appointment to a place on the circuit court of appeals of the United States. He received this appointment almost before he had finished his work helping whitewash the T. V. A. How long did he hold this most honorable position of circuit judge for the United States? He only held it for a few months. They resigned him from that high and honorable place at the behest of the administration to accept a place as Solicitor General of the United States—that place is not to be compared to a place on the highest court next to the Supreme Court—and I think he is being prepared for the Supreme Court of the United States. I am opposed to that sort of method of picking judges. I am opposed to that way of handling our courts. Why do we not rise up here this afternoon and defeat this proposition? Let us put it aside for a while. We can get along without any more judges at this time, and when we have done that we will have done what our constituents want us to do, what we ought to do and we will have done right. [Applause.]

Mr. COCHRAN. Will the gentleman yield?

Mr. JENKINS of Ohio. I yield to the gentleman from Missouri.

Mr. COCHRAN. Does the gentleman from Ohio [Mr. JENKINS] challenge the report of the judicial conference wherein it is stated that there is a need for another judge in the gentleman's circuit?

Mr. JENKINS of Ohio. I have great respect for the judicial conference. But there are several things involved in putting a man on the bench. In the first place, you need a competent man, and in the second place he should be put on there in the right way. I am not ready to say that we need another judge in Ohio. For instance, one of the persons appointed to the Federal bench from Ohio had not tried a case for many years, yet he was appointed on the circuit court of appeals to decide the important matters that claim the attention of that court. This is not a wise course to pursue.

Mr. COCHRAN. We are not considering the appointee. We are considering the recommendation of the judicial conference.

Mr. WALTER. Will the gentleman yield?

Mr. JENKINS of Ohio. I yield to the gentleman from Pennsylvania.

Mr. WALTER. The gentleman has referred to the distinguished Philadelphian, Francis Biddle?

Mr. JENKINS of Ohio. Yes.

Mr. WALTER. It is too bad the gentleman did not read the speech delivered at a dinner recently by George Wharton Pepper, one of the leaders of the gentleman's party, extolling Mr. Biddle.

Mr. JENKINS of Ohio. I probably know as much about that matter as does the distinguished gentleman to whom my friend refers. I have no desire to discuss personalities. I say that the selection of Mr. Biddle to the court of appeals was not above unfavorable comment, and that the withdrawing him from the court and putting him in another position does not reflect credit on him or those at whose beck and call he responds, and it is almost an insult to the high judicial position with which the parties were playing hide-and-seek.

Mr. WALTER. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. BELL].

Mr. BELL. Mr. Chairman, I want to call attention to the need for additional circuit judges in the eighth circuit. The work of that circuit has been very, very heavy for a long time. The appellate work in that circuit has been such that it has been necessary to call members of the district bench, already overburdened with duties of the district courts, to assist on the circuit bench. This is not a good condition.

May I say a word about the Committee on the Judiciary? I have watched its work in connection with this bill and I feel that committee has approached the subject purely from the standpoint of the needs of the people of this country. One of the most vital needs of every people is justice, and a justice which is not delayed. Justice delayed is justice denied. In spite of the tireless efforts, the industry and ability of the splendid judges who occupy our Federal bench, justice will be delayed and denied unless we provide a sufficient number of judges. Whenever we are so niggardly in our appropriations and in our arrangements for the judiciary of this country that we do not provide a sufficient number of judges to do the work carefully, thoughtfully, and in an orderly manner, we are denying justice to the people of this country. I do not think the Congress wants to do that. So I urge the Members here to vote for the pending bill because I think it is a very good bill.

Mr. COCHRAN. Will the gentleman yield?

Mr. BELL. I yield to the gentleman from Missouri.

Mr. COCHRAN. May I suggest to my colleague that he also bring out the fact that unfortunately the two retired judges in the eighth circuit are now physically unable to answer the call to serve in emergencies, which requires the eighth circuit at the present time to call upon the district judges in that circuit? That certainly is a very bad practice and the judicial conference recognizes that fact and recommends two additional judges.

Mr. BELL. I am familiar with that condition, and it is a condition that needs remedying.

[Here the gavel fell.]

Mr. GUYER of Kansas. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. GIFFORD].

Mr. GIFFORD. Mr. Chairman, following the gentleman from Ohio [Mr. JENKINS], I want to remark that it appeals to me that the committee has made a good report and has, perhaps, proved to us the need of these additional judgeships. They have been very polite, indeed, and very careful not to discuss the practical situation as to how and by whom these judges are to be appointed. We are well informed as to the appointments already made by this administration. I listened yesterday to your side say that they refused a large number of appointees and funds to the old Librarian of Congress because a new Librarian was coming in. Why not be as courteous today and wait for the new President to come in within a few months? We certainly have had enough of a certain type of judges. That is what causes present objections. I believe it is proper and a fair criticism, and that we may warn ourselves that, although the need may exist, "what may we get?"

Mr. WALTER. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. CAMP].

Mr. CAMP. Mr. Chairman, I was surprised this morning to find that some Members do not believe there is any need for certain of these additional judgeships. I ask your indulgence for a few minutes to tell you of my experience in the northern district of Georgia. I came directly from the district attorney's office in that district to this House last August, having served more than 5 years there as assistant United States attorney. In the northern district of Georgia we tried, during the year ending July 30, more than 1,100 cases. We have only one judge and during that year we constantly had with us visiting judges. Judge Kennemer served almost half his time there, coming from Montgomery to assist Judge Underwood in that court. Judge Barrett and Judge Deaver spent almost a third of their time in disposing of this large number of cases.

You may ask why so many cases are tried there. It is mostly because of the heavy habeas corpus docket. We have, in Atlanta, the Federal penitentiary, and there are more than 3,600 prisoners there constantly. Almost every one of these men files an application for a writ of habeas corpus, and the judge has tried more than 300 habeas corpus cases each year for the last 5 years; the hearings on some of the cases lasting several days. The hearings in the famous Al Capone case, the Beard case, the case of Lupo the Wolf, and the Farnsworth case, all took a long time. If you will look at the records you will see that this district court has tried more habeas corpus cases than all the other United States district courts combined.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from Pennsylvania.

Mr. WALTER. Is not the Atlanta Penitentiary in that district?

Mr. CAMP. Yes; that is what I am speaking of. All these cases come from the Federal penitentiary.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from New York.

Mr. CELLER. As a member of the Committee on the Judiciary, may I say that I emphatically agree with what the gentleman says. May I say, also, that there has been no increase in the judicial personnel in Georgia since the act of May 28, 1926.

Mr. CAMP. May I also say that within the northern district of Georgia lies a great Federal reserve, known as Chickamauga Park. There is a peculiar law in effect, giving to the Federal courts exclusive and original jurisdiction over that area. Therefore, the district court in the northern district of Georgia has to try even misdemeanor cases originating in that great tract of land.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from Georgia.

Mr. COX. While I believe a great many of our Federal judges are little more than fancy loafers, and while I do not like the philosophy of a great many men who have been promoted to the Federal bench, I am familiar with the situation to which the gentleman is addressing himself, and I know there is a real need for relief through the appointment of an additional judge. The inquiry I have made discloses that this situation is true with respect to the other four judgeships provided in the bill.

Mr. CAMP. The judicial conference in September 1938 recommended an additional judge for the northern district of Georgia. Georgia has three districts—the northern, middle, and southern.

The northern district includes the city of Atlanta, one of the most important industrial and railroad centers of the South. The United States penitentiary, known as Atlanta Penitentiary, being there results in the filing of the large number of habeas corpus proceedings. The volume of business in this district is the heaviest of any district in the

United States having only one judge. Judge Underwood, the present judge, is the most overworked Federal judge in this country. During the fiscal year ending June 30, 1938, there were filed in the northern district of Georgia 419 civil actions and 496 criminal proceedings, a total of 915 cases, while the average number of cases filed per judge for the whole country in the same period was 183 civil actions and 188 criminal proceedings, a total of 371 cases. Thus, there were nearly three times as many cases filed before the one judge in this district during the fiscal year of 1938 as was the average per judge for the entire country during the same period.

Moreover, the number of cases pending on December 31, 1938, was 423, an increase of 32 cases over the number pending on June 30, 1938. During that 6-month period 495 cases were terminated, while 527 were filed.

I desire to appeal to you to remedy this situation not only in the interest of justice and fairness, but I ask it for the relief of this overworked judge and the understaffed office of the district attorney.

To keep up with this growing docket and to dispose of this large volume of business it is the custom of the judge when presiding in the divisions of his court outside of Atlanta to open his court early and adjourn very late, often holding court open until after darkness has set in. This has resulted in much inconvenience to jurors, parties, and witnesses who live in the rural sections.

We really need this judgeship. There has been no increase in the judicial personnel of the State of Georgia since the act of May 28, 1926 (44 Stat. 870), which increased the number of districts in the State from two to three.

The CHAIRMAN. The time of the gentleman from Georgia has expired; all time has expired.

The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That the President is authorized to appoint, by and with the advice and consent of the Senate, two additional circuit judges as follows:

One for the sixth circuit and one for the eighth circuit.

Mr. WALTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALTER: Page 1, line 6, after the word "circuit", strike out "one" and insert "two."

Mr. WALTER. Mr. Chairman, this is the amendment that the Judiciary Committee agreed on this morning. I have already discussed the amendment. It provides for two judges in the eighth circuit.

The amendment was agreed to.

Mr. COCHRAN. Mr. Chairman, I want to suggest to the gentleman from Pennsylvania that inasmuch as the amendment has just been agreed to that he move to strike out the word "two" in line 4, and insert "three."

Mr. WALTER. I shall offer a perfecting amendment later.

The Clerk read as follows:

SEC. 2. The President is authorized to appoint, by and with the advice and consent of the Senate, seven additional district judges, as follows:

One for each of the following districts: Southern district of California, district of New Jersey, western district of Washington, western district of Oklahoma, eastern district of Pennsylvania, southern district of New York, and one who shall be a district judge for the northern and southern districts of Florida.

With the following committee amendments:

In line 8, on page 1, strike out "seven" and insert "five."

In line 11, on page 1, after the word "Jersey", strike out the remainder of the line, and all of line 1, on page 2, and insert "northern district of Georgia."

On page 2, line 3, after the word "New", strike out the remainder of the line and all of line 4, and insert "York: *Provided*, That the first vacancy occurring in the office of district judge in each of said districts shall not be filled."

The committee amendments were agreed to.

Mr. WALTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALTER: On page 1, line 11, after the word "California", insert "northern district of Illinois."

Mr. WALTER. Mr. Chairman, while this amendment is not recommended by the judicial conference, nevertheless it appealed to the members of the Judiciary Committee who gave considerable thought to this proposition that certainly there ought to be a temporary judge provided immediately for the northern district of Illinois. This need arises from the incapacity of one of the judges, who is past retirement age. This judge has not been on the bench for many months, with the result that the criminal cases have increased from 150 pending on the 30th of June 1938, to approximately 300 today. All of the cases in that district have increased from a grand total of 3,900 to 4,288.

Mr. KEEFE. Mr. Chairman, will the gentleman yield?

Mr. WALTER. Yes; certainly.

Mr. KEEFE. The gentleman has used the words "temporary judge." Will the gentleman explain what he means by a temporary appointment?

Mr. WALTER. By that I mean when there shall be a vacancy due to the death, resignation, or removal of any of the present judges, the vacancy cannot be filled except by an additional act of Congress. All of the judges in this bill are popularly known as temporary judges. The judges themselves are appointed for life, but the judgeship is a temporary position.

I certainly feel that in this case we ought to create this additional, temporary judgeship.

Mr. MICHENER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment has not been considered by the Judiciary Committee, other than as suggested in a meeting of the committee this morning.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. I yield.

Mr. WALTER. I would like to call the gentleman's attention to the fact that at the last regular meeting of the committee we did discuss this matter, and the committee agreed to offer this as a committee amendment. The gentleman from Michigan was not at that meeting. We again discussed the matter this morning.

Mr. MICHENER. If the gentleman says that is true, it is true. I did not know I had missed a committee meeting, but I possibly was a little late on some occasions. The other members of the committee would probably know about that, but the fact is, and the real thing to be considered is that the judicial conference has not recommended this judgeship. I am absolutely opposed to all political judges. I go along with the bill when it has the recommendation of the bar association—the people who know—the businessmen of the community—the people who know—the judicial conference, composed of the Chief Justice of the United States and the judges who should know, but I am opposed to political judges, and I am opposed to creating judgeships momentarily or on the spur of the moment here on the floor of the House.

Miss SUMNER of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. Yes.

Miss SUMNER of Illinois. It seems to me that the question ought to be commented on whether it is better to appoint these judges now or wait, perhaps, until the next Congress or the next administration comes in. It seems to me that always before this administration, Presidents of both parties have appointed independent men and able lawyers as judges, and it might be, we hope, that the next administration, regardless of party, will adopt that traditional policy.

Mr. MICHENER. For my part, I am a Republican, and I would possibly appoint all Republican judges if they were as capable as available Democrats; but I am saying that the Judiciary Committee is not partisan. I am saying that we have found, after careful study, and as recommended by a Republican Chief Justice, that the country needs these additional judges provided in this bill; and I, for one, am not going to deprive the litigants of the country of the right to have the courts function now, simply because we are going to get a Republican President in 1940. If the Democrats have as

much trouble in selecting judges and in settling their political quarrels about the appointment of judges as they have had in the State of New Jersey, we need not fear any appointments for at least a year, and so I, for one, am ready to start the thing going; but I do think we are going far afield—and I am not talking politics—when we come on the floor and attempt to create new judgeships. Perhaps the majority have the political votes to do that, but you are going to do it by political votes, if you do.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. Yes.

Mr. WALTER. The gentleman does not believe it political where the judge is incapacitated and is in California for his health and has been there for 5 months, and as a result of that the entire calendar has become congested?

Mr. MICHENER. That is possibly true. The judicial conference is going to meet shortly, and the judicial conference will recommend, and if it does recommend that we need that judge there, the gentleman from Pennsylvania knows that I will be the first man to advocate the appointment.

Mr. WALTER. But the judicial conference will not meet again until October.

Mr. MICHENER. But you have your summer vacation right ahead of you. If I were making a speech against this bill and wanted a real excuse, I would say the judges would not be appointed so that they could do anything during the summer anyway. The summer vacation comes very soon; however, we must remember that the next Congress does not convene until next January. Judges appointed now will be available for the fall terms.

The CHAIRMAN. The time of the gentleman from Michigan has expired. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. MICHENER) there were—ayes 86, noes 70.

Mr. TABER. Mr. Chairman, I demand tellers.

Tellers were ordered and the chair appointed Mr. WALTER and Mr. TABER to act as tellers.

The Committee again divided and the tellers reported—ayes 105, noes 89.

So the amendment was agreed to.

Mr. COCHRAN. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. COCHRAN: Page 1, line 11, after the word "Jersey" insert the following: "Eastern district of Missouri."

Mr. COCHRAN. Mr. Chairman, I especially would like to have the attention of the gentleman from Michigan [Mr. MICHENER]. I approve of the method of selecting additional judges when the committee accepts the recommendations of the judicial conference. Such a procedure removes the political issue. Surely we can trust Chief Justice Hughes and his associates.

The gentleman from Michigan said a moment ago to the gentleman from Pennsylvania [Mr. WALTER] that the gentleman from Pennsylvania knows that he, the gentleman from Michigan, would be the first one to support an amendment recommended by the judicial conference. The judicial conference in 1938 and again in 1939 recommended an additional district judge for the eastern district of Missouri. So I hope the gentleman from Michigan will be consistent and not only vote for my amendment, but make a speech for it.

It so happens that included in the eastern district of Missouri is the city of St. Louis. It is one of the greatest railroad centers in the United States. It is not a flag station. No train ever goes through that city. It either is made up there or it ends its run there. We have in our district courts a number of cases where large railroads are in the hands of receivers, and that is taking the entire time of one of our district judges. There is nothing that I can say concerning the situation in the eastern district of Missouri that has not been said by the conference of circuit judges, headed by Chief Justice Hughes. Here is the recommendation—

The judicial conference in September 1938 recommended an additional district judge for the eastern district of Missouri.

Missouri is divided into two districts—the eastern and western. The eastern district is composed of 48 counties and includes the city of St. Louis.

There are two judges in this district, who are assisted a part of the time by the judge authorized by the act of June 22, 1936 (49 Stat. 1804) to serve both the eastern and western districts.

The volume of business is large, and during the fiscal year of 1938 the case load per judge of 406 cases exceeded somewhat the average per judge for the entire country, which was 371 cases. The business is increasing, as appears by the fact that during the fiscal year ending June 30, 1938, there were 515 civil actions and 499 criminal proceedings filed, while during the fiscal year ending June 30, 1937, there had been 425 civil actions and 512 criminal proceedings filed.

Then followed the 1939 recommendation for an additional judge.

If we are going to follow the recommendation of the judicial conference, I think you should accept the recommendation not only for 1938 but also for 1939, and accept my amendment. [Applause.]

Mr. REES of Kansas. Mr. Chairman, will the gentleman yield?

Mr. COCHRAN. I yield.

Mr. REES of Kansas. As I understand it, the provision for this judge is not in this bill?

Mr. COCHRAN. It is not in the bill, but it has been recommended by the conference of circuit judges for 1938 and 1939. I introduced a bill immediately following this recommendation.

Mr. REES of Kansas. Did the gentleman appear before the Judiciary Committee and ask for this judge?

Mr. COCHRAN. I did not. I felt there was no necessity if they would follow precedents and would accept the recommendation of the judicial conference.

Mr. REES of Kansas. Does not the gentleman think that it comes with rather poor taste to add these judges on the floor of the House when the Judiciary Committee has not had a chance to give consideration to the question?

Mr. COCHRAN. If there is one Member of this House who has offered amendments on the floor, it is the gentleman from Kansas; and I am just wondering if the gentleman has appeared before the legislative committees on all the amendments he has offered to all bills on this floor before he submitted the amendments. [Applause.]

Mr. ZIMMERMAN. Mr. Chairman, will the gentleman yield?

Mr. COCHRAN. I yield.

Mr. ZIMMERMAN. I would like to ask the gentleman if it is not a fact that the two Federal judges in the city of St. Louis also serve the entire eastern district of Missouri by holding court at stated intervals in northeastern Missouri at Hannibal and southeastern Missouri at Cape Girardeau, and if those courts do not take up a large part of the time of those two judges? Is that not the fact?

Mr. COCHRAN. Yes; that is the fact, as the record will show. They serve a territory with over 2,000,000 people.

Mr. ZIMMERMAN. And I will ask the gentleman if it is not further the fact that, because of the amount of business in the eastern district of Missouri, those judges are months behind in transacting the business on the dockets of those courts?

Mr. COCHRAN. The conference of circuit judges so reports. I do not know that exists; but when the conference says so, I feel the proper answer to the question is "yes."

I do not know the conditions existing in other parts of the country; but I say if there is any district that is entitled to an additional district judge, it is the eastern district of Missouri. It so happens for about 10 days on a recent visit to St. Louis I stayed at a hotel where also stayed the judge who serves part of his time in the eastern district and the other part in the western district of Missouri. I am a competent witness in this matter, because I know this judge worked every night until at least midnight in an effort to keep up with his assignments. That is not fair. Is it any wonder so many of our judges are ill? I do not ask you to provide this judge solely

on my recommendation but on the recommendation of the conference of circuit judges.

In view of that report, I again say I hope the House will accept my amendment. [Applause.]

[Here the gavel fell.]

Mr. MICHENER. Mr. Chairman, I rise in opposition to the amendment.

The gentleman from Missouri [Mr. COCHRAN] questioned my statement made a moment ago as to just what my position was on the recommendations of the judicial conference. The Judiciary Committee has not recommended to Congress in this bill all of the judges suggested by the judicial conference. As I recall, the Missouri judgeship was never before the committee for consideration. Possibly a bill might have been introduced, but these gentlemen certainly did not come before the Judiciary Committee and present their case. Certainly no one else appeared before the Judiciary Committee asking that this judge be included. Certainly the Department of Justice did not appear before the committee and ask that this judge be included. Therefore the Judiciary Committee has not included it.

I always favor a judgeship where that judgeship has been suggested by the judicial conference and where the Judiciary Committee, after careful study, has determined that it is needed. We scan those matters carefully before including them in a bill. The approval of the judicial conference is a prerequisite with me. I stand today squarely for the bill which the Judiciary Committee, after careful consideration, reported to this House. I shall vote against the bill if these political judges are included.

Mr. COCHRAN. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. Yes; I yield to the gentleman.

Mr. COCHRAN. The gentleman has added a proviso to his statement, but I will say to the gentleman that when the judicial conference made its report I immediately introduced a bill to carry out the recommendations of the conference. When the Judiciary Committee of the House considered this legislation, it certainly had before it the report of the judicial conference, not only for 1939 but also the report for 1938. How could I add anything that would have more weight than the statement of the judicial conference headed by Chief Justice Hughes?

Mr. MICHENER. I suggest that the gentleman come before the next Congress and show his interest in the bill. He is one of the most industrious and influential Members and his presence always carries conviction.

Mr. LAMBERTSON. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. I yield.

Mr. LAMBERTSON. Did the judicial conference ever recommend that two judgeships be consolidated or that any be eliminated, or do they just advise when they need an extra one?

Mr. MICHENER. No; I do not recall that they ever did, but the Judiciary Committee of this House has set up an agency which is now studying this thing and is going to make a report in the next Congress. It is my hope and the hope of every man here, I think, that those judges that are not needed should be eliminated. There are a number of them that were political judges, put on on the floor of this House, just as we are trying to put on this judge under this bill. Where they are not needed they should be eliminated.

Mr. VORYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. I yield.

Mr. VORYS of Ohio. Is this same organization of your committee that is making this study also studying the matter of additional judges, so that we might wait until that report is presented before acting on this matter?

Mr. MICHENER. They are making an investigation of conditions throughout the entire country. They may report back to the Judiciary Committee and that committee will report a bill to the floor just as soon as it feels one should be reported. Therefore, since there is no politics in the matter and we are not acting as Republicans or Democrats, but as a committee, I think the House should be very cautious about adding additional judges on the floor of this House when they have not been considered by a committee of this House.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. I yield.

Mr. WALTER. The gentleman asked why the subcommittee did not include this judgeship despite the fact that it was recommended by the judicial conference. That was because the statistics which we considered showed a considerable falling off of the work in that district.

Mr. MICHENER. Mr. Chairman, that is the chairman of the subcommittee speaking.

Mr. COCHRAN. When were those statistics prepared?

The CHAIRMAN. The time of the gentleman from Michigan [Mr. MICHENER] has expired.

Mr. CELLER. Mr. Chairman, I move to strike out the last word in order to call to the attention of the membership certain facts which appeared in the hearings on similar bills before the Senate Judiciary Committee.

With reference to the situation in Missouri we find these facts: There are two judges in this district who are assisted part of the time by a judge authorized by the act of June 22, 1936, to serve in both the eastern and western districts. The volume of business is large. During the fiscal year 1938 the case load of 406 cases per judge exceeded somewhat the average per judge for the entire country, which was only 371 cases. In this district, therefore, you have an average case load of 406, whereas the average case load throughout the length and breadth of the land is only 371. It was this very fact which caused the judicial conference, as I understand it, to vote for this additional judge. There may have been a falling off of the number of cases recently, but we know that the case load may fall off one month and increase the next. In the light of these circumstances and this case load, I think it is only reasonable that there should be this additional judge.

Mr. JENKINS of Ohio. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, there is no reason in the world why we should not support the amendment offered by the gentleman from Missouri if we are going to support this bill. I shall be consistent and support neither. Why should not the gentleman from Missouri have an additional judge? He represents the great city of St. Louis. He has made out as good a case as the others. How will he explain to his constituents that you deny him? He told you that the judicial conference recommended an additional judge for the great city of St. Louis, but still you deny him. You allowed an additional judge for Illinois. I hope the gentleman from Missouri [Mr. COCHRAN] will call you to account for discriminating against him.

In the State of Ohio an additional judgeship is needed, so they say. The distinguished gentleman from Cleveland [Mr. CROSSER] stated that he might offer an amendment for an additional judgeship in Ohio; I should be sorry to find myself in opposition to him, but I shall oppose it. This is a poor time to be adding additional expenses. In proof of what I have been saying, let me point out certain language in the bill. Page 1, lines 10 and 11:

> One for each of the following districts: Southern district of California, district of New Jersey, western district of Washington, western district of Oklahoma.

They struck out "western district of Washington, western district of Oklahoma," and they also struck out one who should serve in both the northern and southern districts of Florida. Why did they make that change?

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. JENKINS of Ohio. I am sorry, I cannot yield to the distinguished gentleman at this time.

Mr. WALTER. The gentleman has asked a question. Does he not want an answer?

Mr. JENKINS of Ohio. I cannot yield until I have followed this up. Then, I will let the gentleman answer.

Why did they insert these States and then strike them out? It is just as I stated a while ago, this is simply a logrolling

proposition. Like children playing a game, they put their finger down at random and say, "We will have a judge here, we will have a judge there, and another there." Do we need these judges? Why not send some of those who have little to do to help those who are rushed; that is the way to do it.

Mr. Chairman, we know that we now have enough judges in this country to do this business if they could be sent from one district to another. Let me point out some other language in this bill that needs defining.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. JENKINS of Ohio. I am sorry, but I cannot yield.

Let me point out certain language on the last page of the bill which it seems to me needs some explaining:

Provided, That the first vacancy occurring in the office of district judge in each of said districts shall not be filled.

What sense is there in this kind of legislating? In effect, it provides for the appointment of a new judge, but provides that if any of the judges at that time serving should quit or die that that vacancy would not be filled. It means that a new judge is needed and will be appointed, and that when he is appointed he will serve for life, and that if Judge A, who is the acting judge, and may be a hard-working, efficient judge, dies soon thereafter, that his place shall not be filled. It would appear that if they needed another judge to assist A, that if A would die they would need another judge to assist the new man recently appointed.

Mr. COCHRAN. If the gentleman will yield, that matter can be explained.

Mr. JENKINS of Ohio. No; I cannot yield at this time, for this language that I read explains itself. And, besides, the gentleman from Missouri is not going to get an extra judge.

Mr. Chairman, I just want to point out the inconsistencies in this language that I have quoted. Why do we not do the rational thing? Why do we not send this bill back to the Committee on the Judiciary and let them come in here after full thought and then if they demonstrated the need of new judges Congress can act. Only two or three of the members of this great committee are really for this measure, some only half-heartedly for it, while several other members of the committee are against it. Why do we not do the right thing, the sensible thing; send this bill back where it came from and let them bring out a real bill, which will command our respect and support?

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. JENKINS of Ohio. I yield to the gentleman from New York.

Mr. CELLER. The gentleman asks why we do not send judges to different districts to try cases. I remind the gentleman that we have reduced allowances to judges for travel expense and subsistence from $10 to $5 a day. How can one expect a judge to go to New York or any large industrial center and live on $5 a day plus travel expenses? It just cannot be done. The judges will not do it because they have to pay too much out of their own pockets.

Mr. JENKINS of Ohio. Just as the gentleman from Michigan told us, if this bill is passed and these judges are appointed, not one of them can get to work before next fall. Why not just wait until next fall before we pass this bill? [Applause.]

(Here the gavel fell.)

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. COCHRAN].

The question was taken; and on a division (demanded by Mr. HANCOCK and Mr. MICHENER) there were—ayes 71, noes 77.

So the amendment was rejected.

Mr. TABER. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. TABER moves that the Committee do now rise and report the bill back to the House, with the recommendation that the enacting clause be stricken out.

Mr. TABER. Mr. Chairman, the House has already adopted an amendment which declares that this bill is not necessary. The committee amendment on page 2 says:

Provided, That the first vacancy occurring in the office of district judge in each of said districts shall not be filled.

That committee amendment has been agreed to. Now, how can we tell our constituents that we were justified in voting for a bill to increase the number of judges throughout the country and at the same time place a provision in the bill that they are not needed? It is the most ridiculous bill I have ever heard of.

I have the greatest respect, Mr. Chairman, for the Committee on the Judiciary, but I cannot stultify myself to the extent of supporting a bill which declares on its face that it is not necessary and ought not to be agreed to.

Mr. MICHENER. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Michigan.

Mr. MICHENER. This is a common provision in many bills heretofore enacted. The gentleman has stood on the floor and advocated those bills himself. It is only for the purpose of meeting existing conditions and preventing overstaffing the courts as conditions change. The gentleman has supported many similar provisions.

Mr. TABER. I have never once in my career in this House voted for any bill providing for additional judges that contained any such provision as this. Maybe some of them have been passed, but not with my vote.

Mr. HANCOCK. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from New York.

Mr. HANCOCK. May I remind the gentleman of something that happened near home. I refer to the bill that created an additional judge for the northern district of New York, which contained this identical language. The gentleman lives in northern New York?

Mr. TABER. It was not advocated by me.

Mr. HANCOCK. It was necessary because the sitting judge was so old and infirm that he was unable to transact any business. So we thought if we were going to have any court business attended to we ought to have an able-bodied young man on the bench. The additional judge was provided; a younger man was appointed, with the provision that when the older judge died there would only be one judge. That was in the northern district of New York.

Mr. WALTER. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Pennsylvania.

Mr WALTER. May I call the gentleman's attention to the fact that the language which he has described as ridiculous appeared in a bill passed by unanimous consent while the gentleman was on the floor several years ago.

Mr. TABER. That may be so, but I do not know of it. It was not passed with my knowing that language was in there. I do not see how the House can possibly vote for a bill that absolutely declares right on its face that it is unnecessary. I cannot do it. I do not know what the rest of you are going to do.

The judge from northern New York referred to is still on the bench and holds court every day 10 years after the bill was passed.

Mr. Chairman, I hope the motion to strike out the enacting clause will be agreed to, which will put an end to this bill.

[Here the gavel fell.]

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from New York [Mr. TABER].

The question was taken; and on a division (demanded by Mr. TABER) there were—ayes 67, noes 88.

So the motion was rejected.

Mr. WALTER. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. WALTER: Page 2, line 3, after "New York", insert "and one who shall be a district judge for the northern and southern districts of Florida."

Mr. TABER. Mr. Chairman, I make the point of order that that particular language has already been stricken out of the bill by action of the committee. It has already been disposed of once by the committee. The committee acted on this identical language.

Mr. PETERSON of Florida. Mr. Chairman, I make the point of order that the gentleman's point of order comes too late.

The CHAIRMAN. The point of order raised by the gentleman from New York [Mr. TABER] does not come too late, because no debate has occurred on the amendment.

The Committee of the Whole acted on a committee amendment striking out this identical language; therefore, the point of order is sustained.

Mr. KEEFE. Mr. Chairman, I move to strike out the last word so that I may secure some information before finally voting on this bill.

Mr. Chairman, I refer specifically to the language found on page 2, at the end of the bill. May I ask the chairman of the subcommittee if he will be kind enough to state just how many of the proposed new judges provided in this bill, including the amendment adopted here, will take the places of judges who are now incapacitated through illness or disease or inability to perform their work?

Mr. WALTER. There are two. In the other cases the additions are required because of congested calendars.

Mr. KEEFE. It appears then that the thinking of the committee is based on the theory that because there are two judges who for some reason or other are incapacitated, there must be other judges appointed to do their work?

Mr. WALTER. Oh, no. The committee feels that the American citizens are entitled to the justice that they can get only through a speedy trial. In the case of some of the districts we have considered, it takes 38 months to get a case tried, and we do not think that is justice.

Mr. KEEFE. If the gentleman will confine himself to answering my questions, I would appreciate it. I am asking for information, if I can get it.

Two of these judges are incapacitated, yet you expect to provide additional judges in those districts in order to do the work these judges are not able to do.

Mr. WALTER. That is right.

Mr. KEEFE. If the judge who is incapacitated finally dies or resigns, that vacancy will not be filled?

Mr. WALTER. Precisely.

Mr. KEEFE. Then, as far as the judgeships in the districts where additional judgeships are asked, based on the overcrowding of calendars and overwork are concerned, there certainly will not be a situation other than that those judges will be permanent. Is not that true?

Mr. WALTER. No; that is not true, because every district court judge to be appointed under this bill will be appointed under the same conditions.

Mr. KEEFE. He is appointed under the same conditions; he is appointed for life.

Mr. WALTER. The gentleman is correct.

Mr. KEEFE. The only situation is that if one of them is appointed for life in a district that has an overcrowded calendar and where the judges are active, he will stay there for life and until some judge decides to quit or dies or passes out of the picture.

Mr. WALTER. No; of course not.

Mr. KEEFE. Will he not?

Mr. WALTER. The gentleman is asking me to discuss something I cannot answer.

Mr. KEEFE. The gentleman is chairman of the subcommittee, and I respect the gentleman's ability.

Mr. WALTER. The gentleman is asking me to tell him what is in the minds of these judges.

Mr. KEEFE. No.

Mr. WALTER. Of course he is. The gentleman is asking me what they are going to do. How do I know what they are going to do? All I know is that we are creating temporary judgeships.

Mr. KEEFE. As far as the four districts in which you are creating judgeships because the calendars are overcrowded are concerned, there is no question about the appointments at all. These judges are appointed for life, and they will stay there as long as they live.

Mr. WALTER. That is correct.

Mr. KEEFE. The only situation that might arise would be one that would arise normally, if in those districts a sitting judge were to die or become incapacitated and so resign. Then, under the provisions of this bill, in those districts in which you claim the calendar is overcrowded there would be no appointment to fill that vacancy, and Congress would again have to act.

Mr. WALTER. Correct.

Mr. KEEFE. That is the information I sought, and I thank the gentleman.

Mr. GWYNNE. Mr. Chairman, will the gentleman yield?

Mr. KEEFE. I yield to the gentleman from Iowa.

Mr. GWYNNE. Does not the gentleman believe that is a good provision?

Mr. KEEFE. As far as I am concerned, I believe the objective to be a laudable one. However, I have definite doubts as to the constitutional right of Congress to place a limitation upon the appointing power vested under the Constitution in the President. Having created the office, I doubt the power of Congress to try to limit the right of the President to fill the vacancy.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. KEEFE. I yield to the gentleman from Florida.

Mr. GREEN. That has been the practice of the Congress on many other occasions.

Mr. KEEFE. I do not know anything about that, being just a new Member of Congress, but I do know, having given some thought to this situation, that I do not know how you could accomplish the purpose in any other way to provide the litigants with help.

[Here the gavel fell.]

Mr. WALTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALTER: On page 2, line 1, after the comma, strike out "western district of Oklahoma."

Mr. HANCOCK. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HANCOCK. Is not this the language that was just stricken out of the bill?

The CHAIRMAN. The gentleman is correct. The language has been stricken out already by committee amendment.

Mr. HOUSTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOUSTON: On page 1, line 11, after the comma following "New Jersey", insert "Kansas."

Mr. HOUSTON. Mr. Chairman, I am asking for one additional judgeship for Kansas. This does not mean I am asking for a new district or marshal—only one additional judgeship.

The State of Kansas has only 1 Federal judge today to serve approximately 1,882,000 people. The District of Columbia has 1 Federal judge to serve each 40,572 residents. The State of Nevada has 1 Federal judge serving only 91,055 people. The average for the United States is 1 Federal judge for each 693,644 of population, and remember that Kansas has only 1 judge for 1,882,000 people.

The Kansas population per judge is almost three times the average, and it is the largest population per judge in any State of the Union.

Delaware has 220 lawyers to each Federal judge. Kansas has 1,940. The average is 901 lawyers per judge, and Kansas has more than twice that number.

With the exception of one State, Kansas has the greatest area in square miles per judge of any State in the Union—80,000 square miles for one judge.

Under the Republican rule we had two judges, and they operated under the same provision as the one to which the gentleman from Wisconsin [Mr. KEEFE] referred a moment ago. In 1926, under that provision, an additional judge was appointed because the older judge was incapacitated physically, but as he still was able to work now and then he remained on the pay roll and did not retire. In 1929 the second judge was elevated to the circuit court of appeals and a new judge appointed under that provision, and he is still serving.

The elder judge died a few years ago, and our one district judge out there has to handle an average of three cases per day for every working day in the year. I think this is too many cases for one judge to handle if he is to give them the proper time and attention, and I therefore hope that my amendment will be adopted. [Applause.]

[Here the gavel fell.]

Mr. GUYER of Kansas. Mr. Chairman, there is no more use for another Federal judge in Kansas than there is for a fifth wheel on an automobile. [Laughter.] Three times the Judiciary Committee of the House by a majority vote, composed of Democrats, has declared against this judgeship. Likewise, the Senate Judiciary Committee unanimously opposed it. The district judge of Kansas has declared that he will try any case or motion that is on the docket of the court in Kansas within 3 days if such trial is demanded.

Mr. HOUSTON. Mr. Chairman, will the gentleman yield?

Mr. GUYER of Kansas. Yes.

Mr. HOUSTON. Is it not a fact that in 1935, 1936, 1937, and 1938, the judicial council endorsed an additional judge for Kansas?

Mr. GUYER of Kansas. They did, but they quit it when they found it was not necessary.

Mr. HOUSTON. Would the gentleman say that the judicial council was wrong?

Mr. GUYER of Kansas. The point is that in spite of that fact the Judiciary Committee, believing it unnecessary, reported against it.

Mr. HOUSTON. Does the gentleman discount what the judicial council recommended for 4 consecutive years?

Mr. GUYER of Kansas. Yes; I disagree with them. We did not need a judge then and we need one less now, because the dockets are going down not only in the State courts, but also in the Federal courts. I say again that we need no Federal judge in Kansas.

Mr. HOUSTON. Is it not a fact that the gentleman is waiting for the Republican Party to come back into power and then they will need a Republican judge in Kansas?

Mr. GUYER of Kansas. No; I shall oppose it then just the same as I am opposing it now, if it is still unnecessary, and if I am on the Judiciary Committee the gentleman will find that is true.

Mr. LAMBERTSON. Mr. Chairman, will the gentleman yield?

Mr. GUYER of Kansas. I yield.

Mr. LAMBERTSON. Does our colleague from Kansas admit that we are coming back?

Mr. GUYER of Kansas. Well, I do not know about that. These New Dealers are optimistic.

Mr. REES of Kansas. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I rise in opposition to the amendment. I regret very much that I find it necessary to take the floor in opposition to the amendment submitted by my colleague from my own State, who wants, by this legislation, to provide another Federal judge for the State of Kansas. I cannot agree with his views and am opposed to his amendment. I just don't believe he can justify his argument in favor of it.

This proposition of another Federal judge for Kansas has been before this Congress at other times. The gentleman knows that he and I appeared on opposite sides of this question before the Judiciary Committee of the Senate about 2 years ago. The Senate committee, after hearing the evidence on both sides of the question, turned it down. That committee went over the matter carefully and decided Kansas did not need an extra judge. We do not need another judge any more now than we did at that time. The gentleman talks about facts and figures. I have here a copy of a letter that was written to the distinguished gentleman from Kansas who presented this amendment. It was written by the clerk of the United States district court, and here is what he had to say in one of the paragraphs:

> The docket in this district is in good condition and indicates a reduction of business in the district. Judge Hopkins hears all cases, demurrers, and motions of every kind as soon as they are ready for hearing and disposition and counsel are able to present them. Judge Hopkins is continually urging counsel to get their cases ready for trial. He has especially crowded attorneys to prepare and try the war-risk-insurance cases.

The gentleman also called attention to the crowded dockets, but this same letter states:

> These cases pending at this time are for the most part cases filed some years back, but due to the necessity of extensive investigation by the Government since most of the plaintiffs ceased paying premiums and relied upon permanent and total disability at the time of their discharge, 18 years ago, to keep their policies in force, it has been difficult to get them ready for trial.

Now, Mr. Chairman, here is another bill that has not had the approval of the Judiciary Committee of the House. I do not want to criticize the committee too much, but I have been led to believe that the Judiciary Committee of the House is one of the most important, most powerful, and most influential committees of the House of Representatives. That committee has held hearings on these extra amendments. That committee as such is not expressing its views now. We are providing for additional judges without the opinion of that committee as to whether or not they are really needed. We are entitled to the judgment of the Committee on the Judiciary on these matters. I do not think this House has the right to pass any of these amendments unless they are at least heard by the Judiciary Committee of the House, and I think your good common sense will approve that sort of practice.

We should not vote, either, on these measures on party lines. The majority party has voted almost solidly for every amendment providing for additional judges in various parts of the country. We are already providing for a number in the original bill. I believe we could get along well without most of the new ones asked for in the original bill.

On this amendment asking for an additional judge in Kansas you have made no investigation. You have no evidence for the creation of this new judgeship in the State of Kansas except only a 5-minute speech by the distinguished gentleman from the Fifth District of Kansas.

Mr. Chairman, we do not need the additional judge in Kansas. The majority of our State does not want it. The present judge is taking care of the situation. He has plenty of time to hear all the cases when they are ready for hearing. For the good of our State and for the good of the taxpayers of this country you should vote this amendment down. If I really thought we needed the extra judge, I would not be here opposing this legislation.

I realize that while other Members of Congress are getting new judgeships it is somewhat tempting to ask for one in our part of the country.

Mr. HOUSTON. Will the gentleman yield?

Mr. REES of Kansas. Yes.

Mr. HOUSTON. Is it is not a fact that this same Republican clerk appointed by a Republican Federal judge 3 years ago wrote a letter to the committee that only 3 cases were pending, when the Department of Justice said there were about 1,100?

Mr. REES of Kansas. All that I can say is that I have been reading from a copy of a letter directed to the gentleman who proposed this amendment by the clerk of the United States court of that district. He has charge of the records and should know the facts. I believe that letter states the situation in pretty good shape.

Mr. Chairman, I hope the membership of the House will exert their independence, use a little backbone, and vote against this amendment. Then go further and vote against these other amendments creating more and more judgeships. You and I know very well the country can well get along without these additional judgeships. There will be no miscarriage of justice. I do not think there are very many overworked Federal judges in this country. You do not, either. I regret to say it, but this judgeship bill, in my opinion, is mostly another patronage proposition at the expense of a Treasury that shows a deficit and an additional

charge against the people of this country, who cannot afford it.

The CHAIRMAN. The time of the gentleman from Kansas has expired. The question is on the amendment of the gentleman from Kansas [Mr. HOUSTON].

The question was taken; and on a division (demanded by Mr. HOUSTON) there were—ayes 69, noes 90.

So the amendment was rejected.

Mr. MASSINGALE. Mr. Chairman, I offer the following amendment, which I send to the desk.

The clerk read as follows:

Amendment offered by Mr. MASSINGALE: Page 1, line 11, after the words "New Jersey" insert "one additional judge for western district of Oklahoma."

Mr. MICHENER. Mr. Chairman, I rise to a point of order. This same proposition has already been passed upon by the Committee of the Whole, and this judge was stricken from the bill.

The CHAIRMAN. The Chair states to the gentleman from Michigan that this amendment, apparently, is in somewhat different language.

Mr. MICHENER. Assuming that it is in a little different language, under the rule, as I interpret the rule, the result is what counts. The purpose of the Committee on the Judiciary in reporting the bill was to strike out the Oklahoma judgeship. That was before the Committee of the Whole voted to strike it out. The gentleman now offers the same thing in another amendment—that there be created an additional Oklahoma judgeship. Under the circumstances I submit that it is clearly out of order.

The CHAIRMAN. The Chair will look at the language and not at the result. The point of order is overruled.

Mr. MASSINGALE. Mr. Chairman, since we have finished the political feature of the Kansas situation I presume it is all right to go back to a discussion of amendments that are worth while in the present bill.

Mr. HOUSTON. Mr. Chairman, will the gentleman yield?

Mr. MASSINGALE. I cannot yield at this time. Let me say this to the members of the Committee on the Judiciary. I know them all quite well and I appreciate them very much. We have this situation in regard to this particular bill—at least I look at it in that way. I have worked harmoniously with that great committee and have enjoyed it very much. Take the distinguished members of it, like my friend the gentleman from Michigan [Mr. MICHENER], the gentleman from Iowa [Mr. GWYNNE], the gentleman from New York [Mr. HANCOCK], and the gentleman from Indiana, Judge SPRINGER. All of those gentlemen are wanting to punish me, and do you know why? I shall tell you why I am about to be punished, or that they are making an effort to punish me. They are all against me apparently. I think the reason may be found in that old story about Old Dog Tray. I went before this committee last year when this bill was under consideration and told them emphatically that I thought it better not to report out a bill creating an addiional judgeship in Oklahoma because I doubted the necessity for it, and on that recommendation that I made, those gentlemen in agreement with the others concluded that they would just scratch out Oklahoma. I told them at the same time that I was going to investigate the facts. I did investigate the facts, and I came back here this year and told them that Oklahoma needed that additional judgeship, and now these boys are going to punish me because I went in there and had the nerve to tell a bunch of my associate lawyers the truth. Sometimes it just does not do to tell the truth to a lot of lawyers, and that is where I am about to get into trouble. I told them the truth about that Oklahoma situation, and the truth is this: In Oklahoma now the case load is 174 cases greater than the number of cases per judge in the entire United States. Do you tell me that that does not argue that Oklahoma needs an additional judge? Listen to this: In addition to that, as my colleague the gentleman from Oklahoma [Mr. MONRONEY] told you, Oklahoma's record for disposing of cases in the Federal court is 2,090 per year.

The next State under that, with an equal population and an equal number of Federal judges, is Tennessee, which disposed of 1,442 cases. Then we come to Virginia, which disposed of 1,345 cases. Then Louisiana. Those are the only four States in the Union having four judges and having comparable population to the State of Oklahoma.

One of these friends of mine, Judge Springer, from Indiana, complains that Oklahoma should not have any more judges, because Indiana only has two judges. That is not our fault. Indiana ought to work up some business; ought to spread out its industries or business of some sort. Do not penalize Oklahoma, because it has outstripped Indiana in court business and in the dispatch of court business.

Mr. SCHAFER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. MASSINGALE. No; I do not have time to yield.

Now, this is the situation: Oklahoma has a population of 2,396,000. It has four judges and has disposed of 2,090 cases, and, as I said, the case load in the State is 174 cases greater than the case load all over the United States in Federal courts. [Applause.]

[Here the gavel fell.]

Mr. GWYNNE. Mr. Chairman, I rise in opposition to the amendment.

I dislike to oppose my friend the gentleman from Oklahoma [Mr. MASSINGALE]. I find he is usually right. One of the troubles is that the gentleman made two conflicting statements before the subcommittee examining this question. Unfortunately for him, perhaps, the subcommittee heard him the first time. [Laughter.]

Now, seriously, I see no reason why there should be an additional judge in Oklahoma. It is true it was recommended by the Judicial Conference and, I believe, by the Attorney General. Let me remind you, however, that the responsibility is in neither of those places, but it is right here. I want to give you the facts. If you think there should be an additional judge in Oklahoma, you should vote for it. In Oklahoma they have three districts. That is unusual to start with. They have one judge in each district and one roving judge, or a total of four judges for a population of some 2,500,000 people.

Now, here is the situation as far as cases pending are concerned: The cases pending July 1, 1938, criminal and civil, were 502. Cases filed during the year, 661. Cases terminated during the year, 781. They were keeping up with their work and, in fact, they were getting ahead.

So the cases pending on June 30, 1939, were 382. Now, if you would compare the cases filed in the western district of Oklahoma of all kinds, with the cases filed in other districts of Oklahoma, I think you will conclude that there is no real reason why this judgeship should be included at this time.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. MASSINGALE].

The question was taken; and on a division (demanded by Mr. MASSINGALE) there were ayes 80 and noes 86.

Mr. MASSINGALE. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed Mr. MASSINGALE and Mr. GWYNNE to act as tellers.

The Committee again divided and the tellers reported there were ayes 104 and noes 89.

So the amendment was agreed to.

Mr. WALTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALTER: Page 1, line 10, before the word "one" insert "one for the northern and southern districts of Florida."

Mr. TABER. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TABER. That has already been voted upon by the Committee and has been stricken from the bill. There is no difference whatever between that and the language of the bill, with the exception of the word "one" and the word "one" was already there in line 10. So that it does not change the

amendment from the language in the bill which was stricken out, in any degree whatever.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. WALTER] desire to be heard?

Mr. WALTER. Mr. Chairman, the language in the amendment is not the same as the language in the bill. The Chair will note that the language in the bill provides "who shall be a district judge." That is not in the amendment that was just offered. That was in the committee amendment which was acted on when the bill was first taken up.

The CHAIRMAN (Mr. DUNCAN). The Chair believes that while there is some similarity, there is sufficient difference to justify submission of the amendment.

The point of order is overruled.

Mr. WALTER. Mr. Chairman, I could not conceive of a worse situation existing anywhere in the United States than that which appears in Florida today. There are three judges in Florida, all of whom are critically ill. One man had a heart attack just about a month ago. Another one is suffering from diabetes and it is a serious question if he will ever serve again. The people in that State are in the position today that they cannot get a judge to sign an injunction.

At the time the committee took up the bill, as a matter of fact an additional judge was provided in the Senate bill—we felt that it would be possible to carry on without this additional judge.

Since the committee acted the above-described situation has arisen. Certainly the membership of this House does not want to deprive the great State of Florida of the services of at least one judge.

Mr. Chairman, I hope the amendment will be agreed to.

Mr. GWYNNE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think the cold figures would convince anyone that there is no justification for giving an additional judgeship to Florida. The only reason the problem is here before us is because, unfortunately, some of the judges are now physically incapacitated. I believe, however, this is something that need not be called to the attention of Congress. We have in the law at the present time a provision which allows the President, under such circumstances, to appoint a judge to take care of this emergency. His means of knowledge are at least equal to ours and he has taken no action in the matter. Furthermore, let me remind you that in such cases the law allows the assignment of a judge from another district to take care of the situation temporarily. There is no showing here that that had been done in this case. I think the people of Florida should first utilize these other remedies they have been given before they apply for an additional judge, the need for which cannot be justified under the record.

Mr. HENDRICKS. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I would like to have the attention of the Members for just a moment, because I believe the situation is misunderstood. There is a very amusing and ironic situation existing today, anyway, particularly in regard to this Florida judgeship. I have heard a good many Members on the Republican side of the House say that it was purely politics that we bring in this bill providing certain judgeships.

In regard to the Florida judgeship let me say that we all remember the Hatch Act which is cleaning up politics to a great extent. The gentleman who passed that act through the Senate and passed it through the House, with the help of these gentlemen on my left, also reported a bill providing an additional judgeship for the State of Florida, and I am sure the Republican Members would not accuse him of politics.

I think the best way to answer the opposition to this amendment is to quote what your own Republican judge in the State of Florida has said concerning politics. What I am about to read is from a letter written by the Honorable Alexander Ackerman when he was judge. This letter was written to the chairman of the Judiciary subcommittee of the Senate, the gentleman to whom I have just referred. In his letter to this Senator, Judge Ackerman said:

> I beg to assure you that in making the foregoing statements I am in no way influenced by political or personal concern. Prior to my appointment as judge I was rather active in Republican politics and was appointed as a Republican. Of course, I have endeavored in every way possible since my judicial appointment to avoid any participation in politics other than to exercise a citizen's right to vote, but as the appointee to this additional position could only be expected to be a Democrat, such appointment would in no way be pleasing to me politically, and as to a personal consideration, I will be eligible for retirement in about 20 months, and I expect to retire as soon as possible. Therefore, the additional judgeship would not be of any great personal relief to me, but as one who as senior district judge has been responsible for the dispatch of business in the district, I would rejoice to see it made possible for the dockets in this district to be made current and avoid the general criticism of the law's delay.

That came from Judge Alexander Ackerman. I will not at this time read further from the judge's letter but will just say, as Judge Ackerman pointed out, that we have a peculiar problem in Florida. People come there to live just for the winter. This gives rise to cases involving automobile accidents, and because people are from outside of the State and there is diversity of citizenship the cases must be tried in the Federal court. We have the sponge industry. These people use boats. We have our ports and our harbors. This gives rise to admiralty cases which must be tried in the district courts. All our fruits and produce is shipped into and out of the State in the stream of interstate commerce; we have insurance companies operating in the State but incorporated in other States; we have railroads operating within the State but incorporated elsewhere; and we have many other situations which give rise to cases which must be taken to the Federal court instead of the courts of the State of Florida. If we could do away with the problem of diversity of citizenship, if our State courts could handle a lot of these cases the situation would be different; but they have not been able to solve this problem. Now let me say something about the disability of our judges in Florida.

One Member of the House said that if we would appoint better judges we would clear our dockets. Let me say that I do not believe better judges have been appointed anywhere in this country than the present judges in Florida. These men have worked hard. Because, as I say, of cases arising out of diversity of citizenship the Federal judges of our State have been overworked in the past 2 years. Every judge now sitting except the one just recently appointed, Judge Barker, has had serious illness. Because of this fact and because of the further fact that we have so many cases there our dockets are crowded. Let me read a brief table showing something of the cases now pending in the State of Florida as compared with other States.

These figures are for 1937. Alabama had pending 197 cases, Georgia 312, Florida 771, Mississippi 238, and Louisiana 539.

I would like to say that we deserve a judge in Florida and we actually need him. I hope the Members will vote for an additional judge in the State of Florida.

Mr. JENKINS of Ohio. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I want to call to the attention of the Committee a very strange situation. This bill, no doubt, was prepared by the subcommittee and reported to the full committee for final action, and when the bill was first introduced it provided for a judge for Florida. Then the Judiciary Committee apparently changed its mind and struck the Florida provision out of the bill. They did this after the bill was printed. You will see that it has been stricken out, but it was necessary for the chairman of the committee here this afternoon to ask you to vote an amendment taking it out. You adopted that amendment, and now that same chairman is asking you to reinsert that matter into the bill and pass it. The same gentleman comes forward and asks you to do the exact opposite from what he asked you to do an hour ago. This is a very strange situation, and it justifies what I said previously this afternoon—that this bill has not been prepared properly, and it is not a credit to this fine, important Committee on the

Judiciary. They can do better than this, and they should have another chance.

The Judiciary Committee probably know more about this than I do, but in justice to those of us who are not on the committee, and in justice to those of us who want to vote intelligently and conscientiously, this bill should be sent back to the Committee on the Judiciary, and that committee should report a proper bill.

In considering amendments you have been asked to adopt an amendment to provide an additional judge for Kansas, and the gentleman from Kansas [Mr. HOUSTON] made an effort to get another judge for his State and cited the recommendation of the judicial conference in support of his contention; but you refused to give Mr. HOUSTON's State of Kansas another judge.

The gentleman from Kansas [Mr. HOUSTON] is a strong supporter of the New Deal, but you deny him; and the distinguished New Deal gentleman from Missouri [Mr. COCHRAN] asked for another judge. He made a tearful plea, but you turned your back upon him. But it is different with the gentleman from Oklahoma [Mr. MASSINGALE], who is a member of the Judiciary Committee. You give him another judge when his State has not nearly as many people as Indiana, but has twice as many judges. When you get through with this bill you will be ashamed of it. You who are the chief proponents of this measure have admitted by your vacillation that you have no set convictions about this matter. Since this is true, why not send the bill back to the committee and let that committee bring in a bill in line with right and justice? [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALTER].

The question was taken; and on a division (demanded by Mr. HENDRICKS) there were—ayes 79, noes 94.

Mr. HENDRICKS and Mr. PETERSON of Florida demanded tellers.

Tellers were ordered, and the Chair appointed Mr. WALTER and Mr. HANCOCK to act as tellers.

The Committee again divided, and the tellers reported there were—ayes 89, noes 93.

So the amendment was rejected.

Mr. SCHAFER of Wisconsin. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. SCHAFER of Wisconsin: Page 1, line 11, after the comma, and following the words "New Jersey", insert "district of the Virgin Islands."

Mr. SCHAFER of Wisconsin. Mr. Chairman, I offered this amendment in order to speak for 5 minutes on the pending bill. While I was in Congress for 10 years prior to being washed out by the New Deal tidal wave of 1932 many new judgeships were created under a Republican administration. The statistics indicated that these judgeships had to be created on account of congestion in the calendars of the various districts, particularly on account of the then existing Prohibition Act, with its wave of prohibition tyranny. Now we find Federal prohibition with reference to beer, wine, and whisky gone with the wind, and instead of reducing the number of judges, as we promised during the repeal fight, the number of judges has steadily increased since the repeal of prohibition.

At first blush I thought I would oppose this bill, which provides for additional Federal judges. I find, however, upon careful examination, that prohibition tyranny with reference to beer, wine, and whisky has gone with the wind; but we now have a New Deal prohibition tyranny under which the New Deal attempts to regulate or prohibit almost everything done or used by man from the cradle to the grave under a system of espionage and persecution which almost parallels a combination of the German Gestapo and the Russian Ogpu.

In Kenosha, Wis., the New Deal "Ogpu" recently arrested and tried to throw into the Federal penitentiary a poor, hard-working tailor, claiming that he had failed to answer some of their inquisitorial questions with reference to the housing census. In view of the fact that the calendars are loaded in the many judicial districts, and since we can expect until after the 1940 election at least many more cases such as that of this Wisconsin tailor, I shall support this bill in order that the people of America will not have to wait to have their day in court, when they are persecuted and prosecuted by the chosen tribe of New Deal Karl Marx disciples.

Some of our economy peddlers on the Republican side have been threatening us with a roll call because they oppose this bill in the name of economy. I do not intend to be clubbed into line by any economy peddlers on my side of the aisle who in the name of economy want to oppose the expenditure of several hundred thousand dollars to expedite the trial of the great rank and file of our people who are persecuted and prosecuted by our New Deal brethren, particularly since some of these economy peddlers stood up without blushing and voted $100,000,000 so that the Export-Import Bank could play Santa Claus in a big way to foreign countries and people in foreign lands.

Mr. HOUSTON. Mr. Chairman, will the gentleman yield?

Mr. SCHAFER of Wisconsin. I yield to the gentleman from Kansas.

Mr. HOUSTON. Is the gentleman's amendment to create a judgeship in the Virgin Islands?

Mr. SCHAFER of Wisconsin. I believe they ought to have one. I know the New Deal is going out in 1940 as sure as the sun rises in the east and sets in the west. I am not fearful that this bill will provide jobs on the Federal bench for "lame ducks" because "lame duck" Members of Congress will not be able to qualify for those jobs. Furthermore, I believe that after the New Deal goes out with the wind in November and New Deal Federal bureaucratic tyranny is ended we will be able to reduce the number of judgeships we already have. I offer this amendment to create a judgeship in the Virgin Islands so that you can find a good "lame duck" berth for an expert on the Virgin Islands, Prof. Rex Tugwell, so that when the New Deal goes out in 1940 he can go back to the Virgin Islands and dispense his pure conceptions of Karl Marx socialism.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

The amendment was rejected.

Mr. KEAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KEAN: On page 1, line 11, after "California", strike out "district of New Jersey."

Mr. WALTER. Mr. Chairman, I make the point of order that the amendment is not in order, because it strikes out a provision that was voted on by the Committee.

Mr. TABER. Mr. Chairman, this provision has not been voted on at all by the Committee.

The CHAIRMAN. This provision is part of the original bill. The point of order is overruled.

Mr. KEAN. Mr. Chairman, may I say to the chairman of the subcommittee who criticized my statement that these district judgeships cost $20,000 apiece, that I got my information as to that from the Director of the Administration Office of the United States Courts, who stated that that estimate was moderate.

As far as this judgeship is concerned, it is not needed. It was conceived in politics merely to satisfy the patronage desires of two political leaders who could not agree on a candidate for one vacancy. For 18 months the district court litigation was taken care of by three judges, and during that time they gained on the calendar. Now the politicians say they need five judges. Before their judgment was influenced by the fact that they had 33 percent more work, due to the fact that there were only three judges, the sitting district judges unanimously opposed the creation of this extra judgeship. There are now fewer cases pending than there were when they took this action. The circuit judge whose promotion caused the vacancy says this judgeship is not needed. The New Jersey Bar Association in its testimony before the Senate committee stated it was not needed. The leading

independent newspaper of the State says it is not needed. I feel that this amendment should be approved.

Mr. COCHRAN. Mr. Chairman, will the gentleman yield?

Mr. KEAN. I yield to the gentleman from Missouri.

Mr. COCHRAN. I notice that the recommendation of the conference of circuit judges states that there is an increase in the number of cases, and they cite 900 civil actions and 439 criminal proceedings, whereas the year before there were 768 civil actions and 336 criminal proceedings.

Mr. KEAN. To which years is the gentleman referring?

Mr. COCHRAN. I am referring to 1937 and 1938, and these are the figures that are recorded in the report of the judicial conference.

Mr. KEAN. That is correct. The number of cases increased from 1937 to 1938, but there was a large decrease from 1936 to 1937, and there was also a decrease from 1938 to 1939.

[Here the gavel fell.]

Mr. HART. Mr. Chairman, my distinguished friend who has just addressed the Committee has, of course, produced nothing with respect to the motion he has just made that was not contained in the prepared address that he delivered when the rule was under consideration. The gentleman has been very careful to cite the statements of several more or less eminent members of the bar, one of whom at least does not live in the jurisdiction affected by this particular section of the bill. However, the Committee will recall that much has been said here today about the recommendations of the judicial council having included a judgeship for New Jersey in 1938 and again in 1939; likewise, the Attorney General of the United States has recommended the inclusion of an additional judgeship in New Jersey in this bill. The subcommittee reported this judgeship to the Judiciary Committee and the Judiciary Committee has announced that it has reported it to the House unanimously.

Now, Mr. Chairman, another question was asked by my very distinguished colleague and good friend the gentleman from New Jersey [Mr. THOMAS] as to whether or not there were any recommendations besides those which I have mentioned in behalf of the inclusion of an additional judgeship for the district of New Jersey. I wish to state that I have in my possession two letters, one dated March 1939 and another dated in January of 1940, the first of them signed by the then three remaining Republican sitting judges in the district of New Jersey, all of whom were in favor of the creation of this additional judgeship. The letter of January 1940 is signed by the presiding officer of that court, the Honorable Judge Fake, a Republican, an eminent jurist, and in that letter he reiterates his support of the proposal to include this additional judgeship.

Nobody brought politics into this discussion prior to the statement of the distinguished gentleman from New Jersey, who is in opposition to this provision in this bill, but he essayed to describe to the House some sort of fantastic or fictitious agreement or arrangement supposed to have existed, and still to exist, between two political figures on the Democratic side in the State of New Jersey. Of course, that is just a familiar red herring being drawn across the trail. As a matter of fact, his opposition to this bill stems from nothing other than a political desire to permit this vacancy to go over in the hope—vain, as I am sure it is—that with an incoming Republican administration, for which they are all praying on that side, this vacancy may then be provided for and an appointment made by a Republican President.

For 20 years, Mr. Chairman, we had four, or, rather, let us say, three, Republicans sitting in the district of New Jersey, and besides those we had Judge Clark. I do not know what Judge Clark's politics were or are. I know that he is not a Democrat. I should hesitate to assume the responsibility of charging that he is a Republican. [Laughter.] I do know that he gave hope to the Democrats' hearts in New Jersey on one or two occasions by declaring that he contemplated being the Republican candidate for Governor; but, alas, he violated his promise and our hopes fled through the night. [Laughter.] He is the source of the opposition to this bill. He has stated, and he has been quoted by the chairman of the subcommittee as having stated, that he does not want this judgeship created because he does not want Franklin D. Roosevelt to have the power of appointment, and that, Mr. Chairman, from the beneficiary of the present President of the United States, who elevated him—and some of us in New Jersey are glad he did so—from the district court to the Court of Appeals. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. KEAN].

The amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. COOPER) having assumed the chair, Mr. DUNCAN, Chairman of the Committee of the Whole House on the state of the Union, reported that the Committee, having had under consideration the bill (H. R. 7079) to provide for the appointment of additional district and circuit judges, pursuant to House Resolution 424, he reported the same back to the House with sundry amendments adopted in Committee of the Whole.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment?

Mr. HANCOCK. Mr. Speaker, I demand a separate vote on the Massingale amendment establishing a new judgeship in the State of Oklahoma.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

Mr. MICHENER. Mr. Speaker, I demand a separate vote on the Walter amendment, providing a new judgeship in Illinois.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the first amendment on which a separate vote has been demanded.

The Clerk read as follows:

Page 1, line 11, after the words "New Jersey" insert "one additional judge for western district of Oklahoma."

The question was taken; and on a division (demanded by Mr. HANCOCK) there were—ayes 89, noes 82.

Mr. HANCOCK. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 192, nays 145, not voting 93, as follows:

[Roll No. 44]

YEAS—192

Allen, La.	Cox	Griffith	McGranery
Anderson, Mo.	Cravens	Harrington	McKeough
Barden	Crosser	Hart	McLaughlin
Barnes	Crowe	Harter, Ohio	McMillan, Clara G.
Barry	Cullen	Havenner	McMillan, John L.
Bates, Ky.	D'Alesandro	Hendricks	Magnuson
Beam	Davis	Hill	Mahon
Bell	Delaney	Hobbs	Maloney
Bland	Dempsey	Houston	Marcantonio
Bloom	Dies	Hunter	Massingale
Boehne	Dingell	Izac	Merritt
Boland	Disney	Jacobsen	Mills, Ark.
Boren	Doughton	Jarman	Mills, La.
Bradley, Pa.	Doxey	Johnson, Okla.	Mitchell
Brown, Ga.	Drewry	Johnson, W. Va.	Monroney
Bryson	Duncan	Johnson, Luther	Murdock, Utah
Buckler, Minn.	Dunn	Kefauver	Myers
Bulwinkle	Durham	Kelly	Nelson
Byrns, Tenn.	Edelstein	Kennedy, Martin	Nichols
Byron	Edmiston	Kennedy, Md.	Norrell
Camp	Elliott	Kennedy, Michael	Norton
Cannon, Fla.	Ellis	Keogh	O'Connor
Cartwright	Evans	Kerr	O'Day
Celler	Faddis	Kilday	O'Leary
Chapman	Fernandez	Kirwan	O'Neal
Clark	Fitzpatrick	Kitchens	Pace
Claypool	Flannagan	Kocialkowski	Parsons
Cochran	Flannery	Kramer	Patman
Coffee, Nebr.	Folger	Lanham	Patrick
Coffee, Wash.	Ford, Miss.	Larrabee	Patton
Cole, Md.	Fries	Leavy	Pearson
Connery	Gathings	Lesinski	Peterson, Fla.
Cooley	Gavagan	Lewis, Colo.	Peterson, Ga.
Cooper	Gore	Lynch	Pittenger
Costello	Gossett	McAndrews	Rabaut
Courtney	Gregory	McGehee	Ramspeck

Randolph	Sasscer	Smith, Va.	Thomas, Tex.
Rankin	Satterfield	Smith, Wash.	Thomason
Rayburn	Schaefer, Ill.	Snyder	Tolan
Richards	Schafer, Wis.	Somers, N. Y.	Vincent, Ky.
Risk	Schuetz	South	Vinson, Ga.
Robertson	Schulte	Sparkman	Vreeland
Robinson, Utah	Schwert	Spence	Walter
Robsion, Ky.	Shanley	Sullivan	Ward
Rogers, Okla.	Shannon	Sutphin	Warren
Romjue	Sheppard	Tarver	Weaver
Ryan	Sheridan	Tenerowicz	West
Sacks	Smith, Conn.	Terry	Zimmerman

NAYS—145

Alexander	Engel	Jonkman	Rich
Andersen, H. Carl	Englebright	Kean	Rockefeller
Anderson, Calif.	Fenton	Keefe	Rodgers, Pa.
Andresen, A. H.	Fish	Kilburn	Rogers, Mass.
Andrews	Ford, Leland M.	Kinzer	Routzohn
Angell	Fulmer	Kunkel	Rutherford
Arends	Gamble	Lambertson	Sandager
Austin	Gartner	Landis	Schiffler
Ball	Gearhart	LeCompte	Seccombe
Barton	Gerlach	Lewis, Ohio	Seger
Bates, Mass.	Gifford	Luce	Short
Beckworth	Gilchrist	Ludlow	Simpson
Bender	Gillie	McDowell	Smith, Maine
Blackney	Goodwin	McGregor	Smith, Ohio
Bolles	Graham	McLean	Springer
Bolton	Grant, Ala.	McLeod	Stefan
Brooks	Gross	Maas	Sumner, Ill.
Brown, Ohio	Guyer, Kans.	Marshall	Taber
Burdick	Gwynne	Martin, Iowa	Talle
Cannon, Mo.	Hall, Leonard W.	Martin, Mass.	Thill
Carlson	Halleck	Mason	Thomas, N. J.
Chiperfield	Hancock	Michener	Thorkelson
Church	Hare	Miller	Tinkham
Clason	Harness	Monkiewicz	Treadway
Clevenger	Harter, N. Y.	Moser	Van Zandt
Cluett	Hawks	Mott	Vorys, Ohio
Cole, N. Y.	Hess	Mundt	Wadsworth
Colmer	Hinshaw	Murray	Wheat
Corbett	Holmes	O'Brien	Whittington
Culkin	Hope	Oliver	Wigglesworth
Curtis	Hull	Osmers	Winter
Dirksen	Jenkins, Ohio	Poage	Wolcott
Ditter	Jennings	Polk	Wolverton, N. J.
Dondero	Jensen	Powers	Youngdahl
Dworshak	Johns	Reece, Tenn.	
Eaton	Johnson, Ill.	Reed, N. Y.	
Elston	Johnson, Ind.	Rees, Kans.	

NOT VOTING—93

Allen, Ill.	Douglas	Jones, Tex.	Smith, Ill.
Allen, Pa.	Eberharter	Kee	Smith, W. Va.
Arnold	Fay	Keller	Starnes, Ala.
Boykin	Ferguson	Kleberg	Steagall
Bradley, Mich.	Flaherty	Knutson	Stearns, N. H.
Brewster	Ford, Thomas F.	Lea	Sumners, Tex.
Buck	Garrett	Lemke	Sweeney
Buckley, N. Y.	Gehrmann	McArdle	Taylor
Burch	Geyer, Calif.	McCormack	Tibbott
Burgin	Gibbs	Maciejewski	Voorhis, Calif.
Byrne, N. Y.	Grant, Ind.	Mansfield	Wallgren
Caldwell	Green	Martin, Ill.	Welch
Carter	Hall, Edwin A.	May	Whelchel
Case, S. Dak.	Hartley	Mouton	White, Idaho
Casey, Mass.	Healey	Murdock, Ariz.	White, Ohio
Collins	Hennings	O'Toole	Williams, Del.
Crawford	Hoffman	Pfeifer	Williams, Mo.
Creal	Hook	Pierce	Wolfenden, Pa.
Crowther	Horton	Plumley	Wood
Cummings	Jarrett	Reed, Ill.	Woodruff, Mich.
Darden	Jeffries	Sabath	Woodrum, Va.
Darrow	Jenks, N. H.	Scrugham	
DeRouen	Johnson, Lyndon	Secrest	
Dickstein	Jones, Ohio	Shafer, Mich.	

So the amendment was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Pfeifer (for) with Mr. Wolfenden of Pennsylvania (against).
Mr. Hennings (for) with Mr. Plumley (against).
Mr. Buckley of New York (for) with Mr. Allen of Illinois (against).
Mr. Ferguson (for) with Mr. Edwin A. Hall (against).
Mr. Dickstein (for) with Mr. Jeffries (against).
Mr. O'Toole (for) with Mr. Douglas (against).
Mr. Maciejewski (for) with Mr. Jenks of New Hampshire (against).
Mr. Martin of Illinois (for) with Mr. Tibbott (against).
Mr. Byrne of New York (for) with Mr. Reed of Illinois (against).
Mr. Fay (for) with Mr. White of Ohio (against).
Mr. Creal (for) with Mr. Hartley (against).
Mr. Casey of Massachusetts (for) with Mr. Woodruff of Michigan (against).
Mr. Smith of Illinois (for) with Mr. Gehrmann (against).

General pairs:

Mr. Woodrum of Virginia with Mr. Stearns of New Hampshire.
Mr. Mansfield with Mr. Darrow.
Mr. Starnes of Alabama with Mr. Williams of Delaware.
Mr. Burch with Mr. Horton.
Mr. Caldwell with Mr. Welch.
Mr. Gibbs with Mr. Crawford.
Mr. DeRouen with Mr. Jarrett.
Mr. Darden with Mr. Knutson.
Mr. Collins with Mr. Shafer of Michigan.
Mr. Jones of Texas with Mr. Hoffman.
Mr. Whelchel with Mr. Crowther.
Mr. Kleberg with Mr. Jones of Ohio.
Mr. McCormack with Mr. Lemke.
Mr. Buck with Mr. Brewster.
Mr. Burgin with Mr. Case of South Dakota.
Mr. Cummings with Mr. Grant of Indiana.
Mr. May with Mr. Bradley of Michigan.
Mr. Eberharter with Mr. Scrugham.
Mr. Williams of Missouri with Mr. Hook.
Mr. Allen of Pennsylvania with Mr. Wallgren.
Mr. Garrett with Mr. Mouton.
Mr. Sweeney with Mr. Kee.
Mr. Arnold with Mr. McArdle.
Mr. Flaherty with Mr. Smith of West Virginia.
Mr. Taylor with Mr. Boykin.
Mr. Geyer of California with Mr. Healey.
Mr. Secrest with Mr. Green.
Mr. Lea with Mr. Pierce.
Mr. Sabath with Mr. Murdock of Arizona.
Mr. Lyndon B. Johnson with Mr. Keller.

Mr. COOLEY changed his vote from "no" to "aye."

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, the Clerk will report the other amendment upon which a separate vote is demanded.

The Clerk read as follows:

Amendment offered by Mr. WALTER: Page 1, line 11, after the word "California", insert northern district of Illinois."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

Mr. MICHENER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 198, nays 150, not voting 82, as follows:

[Roll No. 45]

YEAS—198

Allen, La.	Doxey	Kitchens	Randolph
Anderson, Mo.	Drewry	Kleberg	Rankin
Barden	Duncan	Kocialkowski	Rayburn
Barnes	Dunn	Kramer	Richards
Barry	Durham	Lanham	Risk
Bates, Ky.	Edelstein	Larrabee	Robertson
Beam	Edmiston	Leavy	Robinson, Utah
Bell	Elliott	Lesinski	Rogers, Okla.
Bland	Evans	Lewis, Colo.	Romjue
Bloom	Faddis	Lynch	Ryan
Boehne	Fay	McAndrews	Sacks
Boland	Fernandez	McGehee	Sasscer
Boren	Fitzpatrick	McGranery	Satterfield
Boykin	Flannagan	McKeough	Schaefer, Ill.
Bradley, Pa.	Flannery	McLaughlin	Schafer, Wis.
Brooks	Folger	McMillan, Clara G.	Schuetz
Brown, Ga.	Ford, Miss.	McMillan, John L.	Schulte
Bulwinkle	Fries	Magnuson	Schwert
Byrns, Tenn.	Gathings	Maloney	Shanley
Byron	Gavagan	Marcantonio	Shannon
Caldwell	Gerlach	Massingale	Sheppard
Camp	Gore	Merritt	Sheridan
Cannon, Fla.	Gossett	Mills, Ark.	Smith, Conn.
Cannon, Mo.	Green	Mills, La.	Smith, Va.
Cartwright	Gregory	Mitchell	Smith, Wash.
Celler	Griffith	Monroney	Snyder
Chapman	Harrington	Moser	Somers, N. Y.
Clark	Hart	Murdock, Utah	South
Cochran	Harter, Ohio	Myers	Sparkman
Coffee, Nebr.	Havenner	Nelson	Spence
Coffee, Wash.	Hendricks	Nichols	Sullivan
Cole, Md.	Hennings	Norrell	Sutphin
Connery	Hill	Norton	Tarver
Cooley	Hobbs	O'Connor	Tenerowicz
Cooper	Houston	O'Day	Terry
Costello	Hunter	O'Leary	Thomas, Tex.
Courtney	Izac	O'Neal	Thomason
Cravens	Jacobsen	Pace	Tolan
Crosser	Jarman	Parsons	Vincent, Ky.
Crowe	Johnson, Luther A.	Patman	Vinson, Ga.
Cullen	Johnson, Okla.	Patrick	Walter
D'Alesandro	Johnson, W. Va.	Patton	Ward
Davis	Kefauver	Pearson	Warren
Delaney	Kelly	Peterson, Fla.	Weaver
Dempsey	Kennedy, Martin	Peterson, Ga.	Welch
Dickstein	Kennedy, Md.	Pfeifer	West
Dies	Kennedy, Michael	Pierce	White, Idaho
Dingell	Keogh	Pittenger	Zimmerman
Disney	Kilday	Rabaut	
Doughton	Kirwan	Ramspeck	

NAYS—150

Alexander	Andresen, A. H.	Arends	Barton
Andersen, H. Carl	Andrews	Austin	Bates, Mass.
Anderson, Calif.	Angell	Ball	Beckworth

Bender	Gifford	Landis	Rogers, Mass.
Blackney	Gilchrist	LeCompte	Routzohn
Bolles	Gillie	Lemke	Rutherford
Bolton	Goodwin	Lewis, Ohio	Sandager
Brown, Ohio	Graham	Luce	Schiffler
Bryson	Grant, Ala.	Ludlow	Seccombe
Buckler, Minn.	Gross	McDowell	Seger
Burdick	Guyer, Kans.	McGregor	Short
Carlson	Gwynne	McLean	Simpson
Chiperfield	Hall, Leonard W.	McLeod	Smith, Maine
Church	Halleck	Maas	Smith, Ohio
Clason	Hancock	Mahon	Springer
Claypool	Hare	Marshall	Stefan
Clevenger	Harness	Martin, Iowa	Sumner, Ill.
Cluett	Harter, N. Y.	Martin, Mass.	Taber
Cole, N. Y.	Hawks	Mason	Talle
Colmer	Hess	Michener	Thill
Corbett	Hinshaw	Miller	Thomas, N. J.
Culkin	Holmes	Monkiewicz	Thorkelson
Curtis	Hope	Mott	Tinkham
Dirksen	Hull	Mundt	Treadway
Ditter	Jenkins, Ohio	Murray	Van Zandt
Dondero	Jennings	O'Brien	Vorys, Ohio
Dworshak	Jensen	Oliver	Vreeland
Eaton	Johns	Osmers	Wadsworth
Elston	Johnson, Ill.	Poage	Wheat
Engel	Johnson, Ind.	Polk	Whittington
Englebright	Jones, Ohio	Powers	Wigglesworth
Fenton	Jonkman	Reece, Tenn.	Winter
Fish	Kean	Reed, N. Y.	Wolcott
Ford, Leland M.	Keefe	Rees, Kans.	Wolfenden, Pa.
Fulmer	Kilburn	Rich	Wolverton, N. J.
Gamble	Kinzer	Robsion, Ky.	Youngdahl
Gartner	Kunkel	Rockefeller	
Gearhart	Lambertson	Rodgers, Pa.	

NOT VOTING—82

Allen, Ill.	DeRouen	Johnson, Lyndon	Shafer, Mich.
Allen, Pa.	Douglas	Jones, Tex.	Smith, Ill.
Arnold	Eberharter	Kee	Smith, W. Va.
Bradley, Mich.	Ellis	Keller	Starnes, Ala.
Brewster	Ferguson	Kerr	Steagall
Buck	Flaherty	Knutson	Stearns, N. H.
Buckley, N. Y.	Ford, Thomas F.	Lea	Sumners, Tex.
Burch	Garrett	McArdle	Sweeney
Burgin	Gehrmann	McCormack	Taylor
Byrne, N. Y.	Geyer, Calif.	Maciejewski	Tibbott
Carter	Gibbs	Mansfield	Voorhis, Calif.
Case, S. Dak.	Grant, Ind.	Martin, Ill.	Wallgren
Casey, Mass.	Hall, Edwin A.	May	Whelchel
Collins	Hartley	Mouton	White, Ohio
Cox	Healey	Murdock, Ariz.	Williams, Del.
Crawford	Hoffman	O'Toole	Williams, Mo.
Creal	Hook	Plumley	Wood
Crowther	Horton	Reed, Ill.	Woodruff, Mich.
Cummings	Jarrett	Sabath	Woodrum, Va.
Darden	Jeffries	Scrugham	
Darrow	Jenks, N. H.	Secrest	

So the amendment was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Secrest (for) with Mr. Plumley (against).
Mr. Buckley of New York (for) with Mr. Allen of Illinois (against).
Mr. Ferguson (for) with Mr. Hall, Edwin A. (against).
Mr. Sweeney (for) with Mr. Jefferies (against).
Mr. O'Toole (for) with Mr. Douglas (against).
Mr. Maciejewski (for) with Mr. Jenks of New Hampshire (aganst).
Mr. Martin of Illinois (for) with Mr. Tibbott (against).
Mr. Byrne of New York (for) with Mr. Reed of Illinois (against).
Mr. Sabath (for) with Mr. White of Ohio (against).
Mr. Creal (for) with Mr. Hartley (against).
Mr. Casey of Massachusetts (for) with Mr. Woodruff of Michigan (against).
Mr Smith of Illinois (for) with Mr. Gehrmann (against).

General pairs:

Mr. Woodrum of Virginia with Mr. Stearns of New Hampshire.
Mr. Mansfield with Mr. Darrow.
Mr. Steagall with Mr. Horton.
Mr. Starnes of Alabama with Mr. Williams of Delaware.
Mr. Gibbs with Mr. Crawford.
Mr. DeRouen with Mr. Jarrett.
Mr. Darden with Mr. Knutson.
Mr. Collins with Mr. Shafer of Michigan.
Mr. Jones of Texas with Mr. Hoffman.
Mr. Whelchel with Mr. Crowther.
Mr. Buck with Mr. Brewster.
Mr. Burgin with Mr. Case of South Dakota.
Mr. Cummings with Mr. Grant of Indiana.
Mr. May with Mr. Bradley of Michigan.
Mr. Eberharter with Mr. Scrugham.
Mr. Williams of Missouri with Mr. Hook.
Mr. Allen of Pennsylvania with Mr. Wallgren.
Mr. Garrett with Mr. Mouton.
Mr. Arnold with Mr. McArdle.
Mr. Flaherty with Mr. Smith of West Virginia.
Mr. Taylor with Mr. Healey.
Mr. Geyer of California with Mr. Cox.
Mr. Lea with Mr. Kerr.
Mr. Johnson, Lyndon B., with Mr. Ellis.
Mr. Burch with Mr. Wood.
Mr. Murdock of Arizona with Mr. Sumners of Texas.
Mr. McCormack with Mr. Kee.

Mr. MURDOCK of Arizona. Mr. Speaker, I desire to vote "aye."

The SPEAKER pro tempore. Does the gentleman qualify?

Mr. MURDOCK of Arizona. I do not, Mr. Speaker.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. SCHAFER of Wisconsin. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman from Wisconsin opposed to the bill?

Mr. SCHAFER of Wisconsin. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies, and the Clerk will report the motion.

The Clerk read as follows:

Mr. SCHAFER of Wisconsin moves to recommit the bill to the Committee on the Judiciary for further consideration.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Wisconsin.

Mr. SCHAFER of Wisconsin. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

The motion was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. MICHENER. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 210, nays 137, not voting 83, as follows:

[Roll No. 46]

YEAS—210

Allen, La.	Durham	Larrabee	Richards
Allen, Pa.	Edelstein	Lea	Risk
Anderson, Mo.	Edmiston	Leavy	Robertson
Barden	Elliott	Lesinski	Robinson, Utah
Barnes	Evans	Lewis, Colo.	Robsion, Ky.
Barry	Faddis	Lynch	Rogers, Okla.
Bates, Ky.	Fay	McAndrews	Romjue
Bell	Fernandez	McGehee	Ryan
Bland	Fitzpatrick	McGranery	Sacks
Bloom	Flannagan	McKeough	Sasscer
Boland	Flannery	McLaughlin	Satterfield
Boykin	Ford, Leland M.	McMillan, Clara G.	Schaefer, Ill.
Bradley, Pa.	Ford, Miss.	McMillan, John L.	Schafer, Wis.
Brooks	Fries	Magnuson	Schuetz
Brown, Ga.	Gathings	Maloney	Schulte
Bulwinkle	Gavagan	Marcantonio	Schwert
Byrns, Tenn.	Gerlach	Massingale	Shanley
Byron	Gore	Merritt	Shannon
Caldwell	Gossett	Mills, Ark.	Sheppard
Camp	Grant, Ala.	Mills, La.	Sheridan
Cannon, Fla.	Green	Mitchell	Smith, Conn.
Cannon, Mo.	Gregory	Monroney	Smith, Maine
Cartwright	Griffith	Moser	Smith, Va.
Celler	Gwynne	Murdock, Ariz.	Smith, Wash.
Chapman	Harrington	Murdock, Utah	Smith, W. Va.
Clark	Hart	Myers	Snyder
Claypool	Harter, Ohio	Nelson	Somers, N. Y.
Cochran	Havenner	Nichols	South
Coffee, Nebr.	Hendricks	Norrell	Sparkman
Coffee, Wash.	Hennings	Norton	Spence
Cole, Md.	Hill	O'Connor	Sullivan
Connery	Hinshaw	O'Day	Sutphin
Cooley	Hobbs	O'Leary	Tarver
Cooper	Hook	Oliver	Tenerowicz
Costello	Hunter	O'Neal	Terry
Courtney	Izac	Osmers	Thomas, Tex.
Cox	Jacobsen	Pace	Thomason
Cravens	Jarman	Parsons	Tolan
Crosser	Johnson, Luther	Patman	Vincent, Ky.
Crowe	Johnson, Okla.	Patrick	Vinson, Ga.
Cullen	Johnson, W. Va.	Patton	Vreeland
D'Alesandro	Kefauver	Pearson	Walter
Davis	Kelly	Peterson, Fla.	Ward
Delaney	Kennedy, Martin	Peterson, Ga.	Warren
Dempsey	Kennedy, Md.	Pfeifer	Weaver
Dickstein	Kennedy, Michael	Pierce	Welch
Dingell	Keogh	Pittenger	West
Disney	Kilday	Powers	White, Idaho
Doughton	Kirwan	Rabaut	Whittington
Doxey	Kitchens	Ramspeck	Wolverton, N. J.
Drewry	Kocialkowski	Randolph	Zimmerman
Duncan	Kramer	Rankin	
Dunn	Lanham	Rayburn	

NAYS—137

Alexander	Dondero	Jonkman	Rees, Kans.
Andersen, H. Carl	Dworshak	Kean	Rich
Anderson, Calif.	Eaton	Keefe	Rockefeller
Andresen, A. H.	Elston	Kilburn	Rodgers, Pa.
Andrews	Engel	Kinzer	Rogers, Mass.
Angell	Englebright	Kleberg	Routzohn
Arends	Fenton	Kunkel	Rutherford
Austin	Fish	Lambertson	Schiffler
Ball	Fulmer	Landis	Seccombe
Barton	Gamble	LeCompte	Seger
Bates, Mass.	Gartner	Lemke	Short
Beckworth	Gifford	Lewis, Ohio	Simpson
Bender	Gilchrist	Luce	Smith, Ohio
Blackney	Gillie	Ludlow	Springer
Bolles	Graham	McDowell	Stefan
Bolton	Gross	McGregor	Sumner, Ill.
Boren	Guyer, Kans.	McLean	Taber
Brown, Ohio	Hall, Leonard W.	McLeod	Talle
Bryson	Halleck	Maas	Thill
Buckler, Minn.	Hancock	Mahon	Thomas, N. J.
Burdick	Harness	Marshall	Thorkelson
Carlson	Harter, N. Y.	Martin, Iowa	Tinkham
Chiperfield	Hawks	Martin, Mass.	Treadway
Church	Hess	Mason	Van Zandt
Clason	Holmes	Michener	Vorys, Ohio
Clevenger	Hope	Miller	Wadsworth
Cluett	Houston	Monkiewicz	Wheat
Cole, N. Y.	Hull	Mott	Wigglesworth
Colmer	Jenkins, Ohio	Mundt	Winter
Corbett	Jennings	Murray	Wolcott
Culkin	Jensen	O'Brien	Wolfenden, Pa.
Curtis	Johns	Poage	Youngdahl
Dies	Johnson, Ill.	Polk	
Dirksen	Johnson, Ind.	Reece, Tenn.	
Ditter	Jones, Ohio	Reed, N. Y.	

NOT VOTING—83

Allen, Ill.	DeRouen	Jarrett	Scrugham
Arnold	Douglas	Jeffries	Secrest
Beam	Eberharter	Jenks, N. H.	Shafer, Mich.
Boehne	Ellis	Johnson, Lyndon	Smith, Ill.
Bradley, Mich.	Ferguson	Jones, Tex.	Starnes, Ala.
Brewster	Flaherty	Kee	Steagall
Buck	Folger	Keller	Stearns, N. H.
Buckley, N. Y.	Ford, Thomas F.	Kerr	Sumners, Tex.
Burch	Garrett	Knutson	Sweeney
Burgin	Gearhart	McArdle	Taylor
Byrne, N. Y.	Gehrmann	McCormack	Tibbott
Carter	Geyer, Calif.	Maciejewski	Voorhis, Calif.
Case, S. Dak.	Gibbs	Mansfield	Wallgren
Casey, Mass.	Goodwin	Martin, Ill.	Whelchel
Collins	Grant, Ind.	May	White, Ohio
Crawford	Hall, Edwin A.	Mouton	Williams, Del.
Creal	Hare	O'Toole	Williams, Mo.
Crowther	Hartley	Plumley	Wood
Cummings	Healey	Reed, Ill.	Woodrum, Va.
Darden	Hoffman	Sabath	Woodruff, Mich.
Darrow	Horton	Sandager	

So the bill was passed.

The Clerk announced the following additional pairs:

On this vote:

Mr. Buckley of New York (for) with Mr. Allen of Illinois (against).
Mr. Ferguson (for) with Mr. Edwin A. Hall (against).
Mr. Sweeney (for) with Mr. Jeffries (against).
Mr. O'Toole (for) with Mr. Douglas (against).
Mr. Maciejewski (for) with Mr. Jenks of New Hampshire (against).
Mr. Martin of Illinois (for) with Mr. Tibbott (against).
Mr. Byrne of New York (for) with Mr. Reed of Illinois (against).
Mr. Sabath (for) with Mr. White of Ohio (against).
Mr. Creal (for) with Mr. Goodwin (against).
Mr. Casey of Massachusetts (for) with Mr. Woodruff of Michigan (against).
Mr. Smith of Illinois (for) with Mr. Gehrmann (against).
Mr. Beam (for) with Mr. Sandager (against).

Until further notice:

Mr. Woodrum of Virginia with Mr. Stearns of New Hampshire.
Mr. Mansfield with Mr. Darrow.
Mr. Starnes of Alabama with Mr. Williams of Delaware.
Mr. Gibbs with Mr. Crawford.
Mr. DeRouen with Mr. Jarrett.
Mr. Darden with Mr. Knutson.
Mr. Collins with Mr. Shafer of Michigan.
Mr. Jones of Texas with Mr. Hoffman.
Mr. Whelchel with Mr. Crowther.
Mr. Buck with Mr. Brewster.
Mr. Burgin with Mr. Case of South Dakota.
Mr. Cummings with Mr. Grant of Indiana.
Mr. May with Mr. Bradley of Michigan.
Mr. Eberharter with Mr. Scrugham.
Mr. Williams of Missouri with Mr. Walgren.
Mr. Garrett with Mr. Mouton.
Mr. Arnold with Mr. McArdle.
Mr. Flaherty with Mr. Hare.
Mr. Taylor with Mr. Healey.
Mr. Geyer of California with Mr. Boehne.
Mr. Lyndon B. Johnson with Mr. Ellis.
Mr. Burch with Mr. Wood.
Mr. McCormack with Mr. Kee.
Mr. Folger with Mr. Plumley.
Mr. Creal with Mr. Hartley.
Mr. Steagall with Mr. Carter.
Mr. Secrest with Mr. Gearhart.
Mr. Keller with Mr. Sumners of Texas.
Mr. Kerr with Mr. Thomas F. Ford.

The result of the vote was announced as above recorded.

By unanimous consent a motion to reconsider the vote whereby the bill was passed was laid on the table.

LEAVE OF ABSENCE

Mr. LUDLOW. Mr. Speaker, my colleague the gentleman from Indiana [Mr. LARRABEE] was called home unexpectedly this afternoon by serious illness in his family. In his behalf I ask unanimous consent that he may be given indefinite leave of absence.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. PATRICK. Mr. Speaker, I ask unanimous consent that on Monday next, after the disposition of the legislative program for the day and any other special orders that may have been entered, I may address the House for 25 minutes.

Mr. MARTIN of Massachusetts. Reserving the right to object, Mr. Speaker, on what date?

Mr. PATRICK. On next Monday.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

EXTENSION OF REMARKS

Mr. PATRICK and Mr. BURDICK asked and were given permission to revise and extend their own remarks.

Mr. WHITTINGTON. Mr. Speaker, I ask unanimous consent to extend in the RECORD an address delivered by Maj. Gen. Julian Schley, Chief of Engineers, on March 13 in this city before the Mississippi Flood Control Association.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. WHITTINGTON. Mr. Speaker, I ask unanimous consent to extend my remarks and to include therein an address delivered by Maj. Gen. Julian Schley, Chief of Engineers, before the Rivers and Harbors Congress in session in Washington today.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. REED of New York. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a quotation of 19 words.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. TREADWAY. Mr. Speaker, I ask unanimous consent to extend my own remarks, and to include therein extracts from an address delivered by the Reverend William A. Foran, and I may say that I fully concur in the views expressed therein.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. WHITE of Idaho. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and to include therein an address I delivered before the Rivers and Harbors Congress in Washington today.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. HOOK. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD, and to include therein a statement from the Washington Herald of March 14 on Mannerheim's message to the Army of Finland.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent to extend my remarks on two subjects: First, to extend my remarks regarding the Wheeler-Lea bill amendments, and, second, to revise and extend my remarks regarding the Neely bill and to insert therein two letters.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. JENKINS of Ohio asked and was given permission to revise and extend his own remarks in the RECORD.

Mr. WHITE of Idaho. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the RECORD, and to include therein testimony given by myself before the Appropriations Committee of the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho [Mr. WHITE]?

There was no objection.

GREAT BRITAIN'S DEBT TO THE UNITED STATES

Mr. RANDOLPH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia [Mr. RANDOLPH]?

There was no objection.

Mr. RANDOLPH. Mr. Speaker, on March 4 I introduced House Resolution 482, looking toward the acquisition of certain British islands, negotiations to be entered into by this country with Great Britain, as partial payment of the war debt which that country owes the United States. A similar resolution was introduced in the other body by the able Senator from North Carolina [Mr. REYNOLDS]. I am sure I speak for him also when I say we have received splendid support from many sections of the country as evidenced by the editorials and the correspondence which has come to our attention.

Mr. Speaker, I ask unanimous consent to include as a part of my remarks at this point three letters supporting this resolution which I believe are typical of the hundreds of communications which both Senator REYNOLDS and myself have received. I trust that the Committee on Foreign Affairs of the House and Senate will give prompt consideration to what we believe is a worthy proposal.

[Here the gavel fell.]

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia [Mr. RANDOLPH]?

There was no objection.

The letters referred to follow:

CHICAGO, ILL., *March 6, 1940.*

Hon. JENNINGS RANDOLPH,
Member of Congress, Washington, D. C.

DEAR MR. CONGRESSMAN: I would like to see a copy of your bill with reference to the acquisition of Caribbean possessions of the British and French.

When one visualizes a string of islands, partially submerged reefs and banks, with comparatively few navigable passages, stretching from within a short distance of our Florida coast for a distance of some 1,600 miles to Trinidad, off the coast of Venezuela, one has a picture of what might be developed into a most effective barricade against any navigation from the Atlantic into the Caribbean, or from our eastern seaboard into the Gulf of Mexico.

These islands, the Bahamas and the Lesser Antilles, are now in possession of friendly foreign powers, but it is not difficult to imagine developments in Europe resulting in their ownership passing to unfriendly powers. A few strategically located naval and airplane bases would afford a control of navigation to and from the Atlantic that would minimize materially the value of the Panama Canal to the United States and to other American nations not on friendly terms with the new owners.

Knowing the Caribbean, it has long been my conviction that, when opportune, something should be done about this matter, and it appears that you have seen an opportunity in the war-debt situation that might be utilized to this end. I hope so.

Very truly yours,

M. D. CARREL.

NICHOLAS VOLK & CO., INC.,
New York, March 6, 1940.

Hon. JENNINGS RANDOLPH,
Washington, D. C.

DEAR SIR: The resolution to be introduced asking President Roosevelt to negotiate with Great Britain for acquisition of certain Western Hemisphere islands in payment of the war debts is an excellent idea; in fact, it is the very best proposition that we could submit to Great Britain at the present time, and if Great Britain refuses they certainly never intend to honor this debt.

I have spoken with a number of my friends about your resolution and we are all agreed that this is a fair and reasonable proposition to submit to Great Britain, and we hope that your resolution will be approved.

We shall be eagerly waiting to learn the outcome of your efforts and hope that you will be successful, as this certainly is a step in the right direction.

Sincerely yours,

NICHOLAS VOLK.

EAST LYNN, MASS., *March 9, 1940.*

Representative RANDOLPH,
House of Representatives, Washington, D. C.

MY DEAR MR. RANDOLPH: In a recent newspaper, I read of your proposed resolution, authorizing the President to negotiate for the acquisition of British islands off the coast of North and South America.

I think that this is the first time that a resolution like this has been asked for in either House of Congress, and I certainly congratulate you on your thought, but think that you should go a step further, if possible, and ask for a law to take them over.

If I owe anyone money on a note, they can sue me for recovery; if I own a piece of land which holds a mortgage and do not pay the interest or the mortgage, the mortgagee can foreclose and take it away from me; if I do not pay taxes on that property, the city can take it away from me.

In this instance, we have loaned Britain, as well as other countries money, and they simply throw up their hands and say, "What are you going to do about it?"

Taking the islands certainly is a logical conclusion to this matter.

Cordially yours,

E. W. WILLIAMS.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. ALEXANDER, until March 22, on account of official business.

To Mr. DARDEN, for 10 days, on account of official business.

To Mr. MAGNUSON, for 10 days, on account of official business.

To Mr. BOEHNE, for 2 weeks, on account of important business.

ST. PATRICK'S DAY

Mr. DUNN. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania [Mr. DUNN]?

There was no objection.

Mr. DUNN. Mr. Speaker, if it is in order, I want to wish everybody in the whole world a happy St. Patrick's Day.

ADJOURNMENT OVER

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas [Mr. RAYBURN]?

There was no objection.

ADJOURNMENT

Mr. RAYBURN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 7 minutes p. m.) the House, under its order heretofore adopted, adjourned until Monday, March 18, 1940, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON MERCHANT MARINE AND FISHERIES

The Committee on Merchant Marine and Fisheries will hold hearings at 10 a. m. on the following dates on the matters named:

Tuesday, March 19, 1940:

H. R. 6136, to amend the act entitled "An act for the establishment of marine schools, and for other purposes," approved March 4, 1911 (36 Stat. 1353; 34 U. S. C. 1122), so as to authorize an appropriation of $50,000 annually to aid in the maintenance and support of marine schools.

H. R. 7094, to authorize the United States Maritime Commission to construct or acquire vessels to be furnished the States of New York, Massachusetts, Pennsylvania, and California for the benefit of their respective nautical schools, and for other purposes.

H. R. 7870, to extend the provisions of the act entitled "An act for the establishment of marine schools, and for other purposes," approved March 4, 1911, to include Astoria, Oreg.

H. R. 8612, to authorize the United States Maritime Commission to construct or acquire vessels to be furnished the States of New York, Massachusetts, Pennsylvania, and California for the benefit of their respective natuical schools, and for other purposes.

Thursday, March 21, 1940:

The Committee on Merchant Marine and Fisheries will hold public hearings on Thursday, March 21, 1940, at 10 a. m., on the following bills providing for the establishment of marine hospitals: H. R. 2985 (GREEN), at Jacksonville, Fla.; H. R. 3214 (GEYER of California), at Los Angeles, Calif.; H. R. 3578 (CANNON of Florida), at Miami, Fla.; H. R. 3700 (PETERSON of Florida), State of Florida; H. R. 4427 (GREEN), State of Florida; H. R. 5577 (IZAC), at San Diego, Calif.; H. R. 6983 (WELCH), State of California.

Wednesday, March 27, 1940:

The Committee on Merchant Marine and Fisheries will hold public hearings on Wednesday, March 27, 1940, at 10 a. m., on the following bills providing for Government aid to the lumber industry: H. R. 7463 (ANGELL) and H. R. 7505 (BOYKIN).

Tuesday, April 2, 1940:

H. R. 7169, authorizing the Secretary of Commerce to establish additional boards of local inspectors in the Bureau of Marine Inspection and Navigation.

Tuesday, April 9, 1940:

The Committee on Merchant Marine and Fisheries will hold public hearings on Tuesday, April 9, 1940, at 10 a. m., on the following bill: H. R. 7637, relative to liability of vessels in collision.

Tuesday, April 16, 1940:

H. R. 8475, to define "American fishery."

COMMITTEE ON PATENTS

The Committee on Patents will hold hearings Thursday, March 21, 1940, at 10:30 a. m., on S. 2689, to amend section 33 of the Copyright Act of March 4, 1309, relating to unlawful importation of copyrighted works.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

There will be a meeting of a subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m., Friday, March 15, 1940, for the consideration of H. R. 7615 and H. R. 8511.

There will be a meeting of a subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m., Monday, March 18, 1940, for the consideration of H. R. 6939 and H. R. 7633, the identical titles of both bills being "Prescribing tolls to be paid for the use of locks on all rivers of the United States."

COMMITTEE ON INSULAR AFFAIRS

There will be a meeting of the Committee on Insular Affairs on Tuesday, March 19, 1940, at 10 a. m., for the consideration of H. R. 8239, Creating the Puerto Rico Water Resources Authority, and for other purposes.

COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS

(Wednesday, March 20, 1940)

There will be a meeting of the Committee on Public Buildings and Grounds at 10 a. m. Wednesday, March 20, 1940, for the consideration of H. R. 4582, to provide for the acquisition of certain property for public use in the District of Columbia.

COMMITTEE ON FLOOD CONTROL

SCHEDULE OF HEARINGS ON FLOOD-CONTROL BILL OF 1940 BEGINNING MARCH 18, 1940, AT 10 A. M., DAILY

The hearings will be on reports submitted by the Chief of Engineers since the Flood Control Act of June 28, 1938, and on amendments to existing law. The committee plans to report an omnibus bill with authorizations of approximately one hundred and fifty to one hundred and seventy-five million dollars covering the principal regions of the country.

1. Monday, March 18: Maj. Gen. Julian L. Schley, Chief of Engineers, has been requested to make a general statement with his recommendations covering a general flood-control bill and the projects that should be included in the bill. He, the president of the Mississippi River Commission, the assistants to the Chief of Engineers, the division engineers, and the district engineers will be requested to submit additional statements as individual projects are considered and as desired by the committee.

2. Tuesday, March 19: Sponsors and representatives of the Corps of Engineers, from New England, New York, and the Atlantic seaboard on all reported projects and pending bills.

3. Wednesday, March 20: Sponsors and representatives of the Corps of Engineers, from the upper Ohio and tributaries, on additional authorizations for levees, flood walls, and reservoirs.

4. Thursday, March 21: Sponsors and representatives of the Corps of Engineers, from the lower Ohio and tributaries, on additional authorizations for levees, flood walls, and reservoirs.

5. Friday, March 22: Sponsors and representatives of the Corps of Engineers, for the upper Mississippi and tributaries, and Missouri River and tributaries.

6. Saturday, March 23: Sponsors and representatives of the Corps of Engineers for projects on the Arkansas River and tributaries.

7. Monday, March 25: Sponsors and representatives of the Corps of Engineers for projects on the White River and tributaries.

8. Tuesday, March 26: Sponsors and representatives of the Corps of Engineers for projects in reports on rivers in Texas and the Southwest.

9. Wednesday, March 27: Sponsors and representatives of the Corps of Engineers for projects in the Los Angeles area and in the Pacific Northwest.

10. Thursday, March 28: Sponsors and representatives of the Corps of Engineers for projects in Colorado and other western areas.

11. Friday, March 29: Sponsors and representatives of the Corps of Engineers for the lower Mississippi River and other tributaries.

12. Saturday, March 30: Sponsors and representatives of the Corps of Engineers for other drainage-basin areas for other projects in other parts of the country.

13. Monday, April 1: Senators and Members of Congress, Department of Agriculture, and other governmental agencies.

COMMITTEE ON FOREIGN AFFAIRS

The Committee on Foreign Affairs will hold hearings Wednesday, March 20, 1940, at 10:30 a. m., on House Joint Resolution 470, to authorize the appropriation of an additional sum of $425,000 for Federal participation in the New York World's Fair, 1940.

EXECUTIVE COMMUNICATIONS, ETC.

1463. Under clause 2 of rule XXIV, a letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated February 27, 1940, submitting a report, together with accompanying papers and an illustration, on examinations of Touchet River, Wash., a tributary of Walla Walla River, authorized by the Flood Control Act approved June 22, 1936, and by acts of Congress approved June 13, 1934, and May 6, 1936 (H. Doc. No. 662), was taken from the Speaker's table, referred to the Committee on Flood Control, and ordered to be printed, with an illustration.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. GAVAGAN: Committee on Elections No. 2. House Resolution 427. Resolution relating to the contested election case of Byron N. Scott, contestant, versus Thomas M. Eaton,

contestee, from the Eighteenth District of California; without amendment (Rept. No. 1783). Referred to the House Calendar.

Mr. HILL: Committee on the Public Lands. H. R. 7736. A bill authorizing the Secretary of the Interior to issue patents for lands held under color of title; with amendment (Rept. No. 1785). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on the Public Lands. H. R. 6575. A bill to authorize and direct the adjustment of land-ownership lines within the General Grant National Park, Calif., in order to protect equities established by possession arising in conformity with a certain survey, and for other purposes; with amendment (Rept. No. 1786). Referred to the Committee of the Whole House on the state of the Union.

Mr. DUNN: Committee on the Census. S. 2505. An act to amend an act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress, approved June 18, 1929, so as to change the date of subsequent apportionments; with amendment (Rept. No. 1787). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROMJUE: Committee on the Post Office and Post Roads. S. 1214. An act to provide for a more permanent tenure for persons carrying the mail on star routes; with amendment (Rept. No. 1788). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mrs. O'DAY: Committee on Immigration and Naturalization. H. R. 8379. A bill for the relief of Izaak Szaja Licht; without amendment (Rept. No. 1784). Referred to the Committee of the Whole House.

Mr. MASON: Committee on Immigration and Naturalization. S. 2598. An act for the relief of Kurt Wessely; without amendment (Rept. No. 1789). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RANKIN:

H. R. 8930. A bill to amend section 202 (3), World War Veterans Act, 1924, as amended, to provide more adequate and uniform administrative provisions in veterans' laws, and for other purposes; to the Committee on World War Veterans' Legislation.

By Mr. HAVENNER:

H. R. 8931. A bill to provide for the settlement and development of Alaska; to the Committee on the Territories.

By Mr. BARRY:

H. R. 8932. A bill to prohibit discrimination against anyone because of age in employment directly and indirectly under the United States; to the Committee on the Civil Service.

By Mr. DITTER:

H. R. 8933. A bill to amend chapter 28 of the laws of 1929, being the act of June 18, 1929 (46 Stat. L. 21), and for other purposes; to the Committee on the Census.

By Mr. GERLACH:

H. R. 8934. A bill to authorize the Secretary of the Interior to purchase the Trexler hatchery in Lehigh County, Pa.; to the Committee on Merchant Marine and Fisheries.

By Mr. LEA:

H. R. 8935. A bill to provide for the registration and regulation of investment companies and investment advisers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MERRITT:

H. R. 8936. A bill to amend the income-tax law to provide credit for dependents under 22 years of age while at school or college; to the Committee on Ways and Means.

By Mr. O'CONNOR:

H. R. 8937. A bill to authorize an appropriation for the relief of ill-clothed, ill-fed, and ill-housed needy American Indians through the utilization of surplus American agricultural and other commodities; to the Committee on Indian Affairs.

By Mr. SMITH of Washington:

H. R. 8938. A bill to authorize a preliminary examination and survey of the Columbia River and its tributaries in Clark County, Wash., extending from the downstream point of the Vancouver Lake area to the upstream point of the Bachelor Island area, a distance of approximately 3 miles, with a view to providing flood control in said area; to the Committee on Flood Control.

By Mr. RANKIN:

H. R. 8939 (by request). A bill to provide more adequate pension for certain disabled World War veterans, and for other purposes; to the Committee on World War Veterans' Legislation.

H. R. 8940 (by request). A bill to provide more adequate compensation for certain dependents of World War veterans, and for other purposes; to the Committee on World War Veterans' Legislation.

By Mr. FULMER:

H. R. 8941. A bill authorizing the coinage of 50-cent pieces in commemoration of the arrival of the Marquis de Lafayette at North Island, near Georgetown, S. C., on June 14, 1777; to the Committee on Coinage, Weights, and Measures.

By Mr. HARE:

H. R. 8942. A bill to aid State and local education by extending the benefits of the Civil Service Retirement Act to teachers in State and other public educational institutions; to the Committee on the Civil Service.

By Mr. SHANLEY:

H. J. Res. 491. Joint resolution to provide reciprocal Finnish debt scholarships; to the Committee on Ways and Means.

H. Con. Res. 53. Concurrent resolution for the relief of Finland; to the Committee on Foreign Affairs.

By Mr. GAVAGAN:

H. Res. 427. Resolution relating to the contested-election case of Byron N. Scott, contestant, versus Thomas M. Eaton, contestee, from the Eighteenth Congressional District of California; to the Committee on Elections No. 2.

By Mr. O'LEARY:

H. Res. 428. Resolution providing for permanent tenure of the officers of the Capitol Police who are World War veterans; to the Committee on Accounts.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of Rhode Island and Providence Plantations, memorializing the President and the Congress of the United States to consider their resolution, H. 780, January session, A. D. 1940, concerning the elections of Presidents, of the United States of America; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOLAND:

H. R. 8943. A bill for the relief of James E. Clark; to the Committee on Military Affairs.

By Mr. ENGLEBRIGHT:

H. R. 8944. A bill for the relief of W. A. Facht; to the Committee on Claims.

By Mr. LELAND M. FORD:

H. R. 8945. A bill authorizing the Commissioner of Patents to register and to admit to practice before the United States Patent Office William E. Baff; to the Committee on Patents.

By Mr. LANHAM:

H. R. 8946. A bill for the relief of Rufus K. Sanderlin; to the Committee on Claims.

By Mr. McANDREWS:

H. R. 8947. A bill to enable Elizabeth Hipp to remain permanently in the United States; to the Committee on Immigration and Naturalization.

By Mr. McGREGOR:

H. R. 8948. A bill granting an increase of pension to Sarah E. Priest; to the Committee on Invalid Pensions.

H. R. 8949. A bill granting an increase of pension to Laura Moore; to the Committee on Invalid Pensions.

By Mr. REED of New York:

H. R. 8950. A bill for the relief of Nathan P. Taft; to the Committee on Claims.

H. R. 8951. A bill granting an increase of pension to Mary F. Warren; to the Committee on Invalid Pensions.

By Mr. TIBBOTT:

H. R. 8952. A bill for the relief of Ivan Rightnour; to the Committee on Military Affairs.

H. R. 8953. A bill authorizing the President of the United States to present the distinguished-service cross to Samson Goldstein; to the Committee on Military Affairs.

By Mr. PETERSON of Florida:

H. J. Res. 492. House Joint Resolution conferring jurisdiction upon the Court of Claims to hear and determine the claim of Trent Trust Co., Ltd., a corporation of the Territory of Hawaii, and Cooke Trust Co., Ltd., a corporation of the Territory of Hawaii, as receiver for said Trent Trust Co., Ltd.; to the Committee on Claims.

By Mr. GRAHAM:

H. Res. 429. Resolution to pay a gratuity to Belle G. Schmoyer, widow of the late Harry A. Schmoyer; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

6948. By Mr. BELL: Memorial of the First Methodist Episcopal Church of Lee's Summit, Mo., that the Congress should legislate to enforce an embargo on the shipments of war materials to Japan; to the Committee on Foreign Affairs.

6949. By Mr. BLOOM: Petition of the Industrial Council of the National Woman's Party, favoring the submitting of the equal rights amendment to the States for ratification; to the Committee on the Judiciary.

6950. By Mr. CONNERY: Resolution of the Massachusetts Women's Political Club, protesting against the enforcement of the 30-day furlough for relief workers, and requesting a sufficiently large appropriation to provide work for the employed; to the Committee on Appropriations.

6951. Also, resolution of the Central Labor Union of Boston, Mass., protesting against Treasury Decision No. 49682, and insisting that American labor be given an oportunity to be heard upon any and all proposed changes in customs, regulations, rules, or decisions affecting American fishermen; to the Committee on Merchant Marine and Fisheries.

6952. Also, resolution of the Atlantic Fishermen's Union, Local 21455, Boston, Mass., requesting a congressional investigation of the fishing industry be made by the Committee on Merchant Marine and Fisheries by sending a subcommittee to Boston and other North Atlantic ports and inviting members of labor unions and other interested parties to testify; to the Committee on Merchant Marine and Fisheries.

6953. Also, resolution of Local 21455, Atlantic Fishermen's Union, Boston, Mass., protesting against Treasury Decision No. 49682, which redefined the American fishery to allow a shore station to be located in Newfoundland; to the Committee on Merchant Marine and Fisheries.

6954. Also, resolution of the Gloucester Seafood Workers' Union, Local 1, series 1572, Gloucester, Mass., protesting against Treasury Decision No. 49682 and asking that steps be taken to guarantee that American labor will be given an opportunity, hereafter, to be heard upon any and all proposed changes in legislation, rulings, or decisions, affecting American fishermen or shore labor; to the Committee on Merchant Marine and Fisheries.

6955. Also, petition of the Peabody Cooperative Bank of Peabody, Mass., opposing the extension of the activities or increase in appropriation of the United States Housing Authority; to the Committee on Banking and Currency.

6956. Also, petition of the Massachusetts Cooperative Bank League, Boston, Mass., opposing the extension of the activities or increase in appropriation of the United States Housing Authority; to the Committee on Banking and Currency.

6957. Also, petition of the Equitable Cooperative Bank of Lynn, Mass., opposing the extension of the activities or increase in appropriation of the United States Housing Authority; to the Committee on Banking and Currency.

6958. Also, resolution of the Massachusetts State Federation of Labor, protesting against Treasury Decision No. 49862, and insisting that American workers and interested union representatives be given an opportunity to be heard upon any proposed changes in customs, regulations, rules, or decisions affecting American fishermen; to the Committee on Merchant Marine and Fisheries.

6959. Also, resolution of the Massachusetts State Federation of Labor, requesting that a committee be established to make inquiry into the general conditions of the New England fishing industry, or that some existing committee in Congress, with authority and with powers of subpena, make such an inquiry; to the Committee on Merchant Marine and Fisheries.

6960. By Mr. JACOBSEN: Resolution of the Townsend General Welfare Club, No. 1, of Clinton, Iowa, Dick F. Hartvigsen, president, voting unanimously to send petition of 700 members present calling upon Congress to act favorably on House bill 8264 for a national pension law to increase the buying power of millions of empty pockets, to relieve the old aged and unemployment suffering; to the Committee on Ways and Means.

6961. By Mr. KEOGH: Petition of the Lane Democratic Club, Inc., first assembly district, county of Kings, Brooklyn, N. Y., favoring sugar legislation that will protect the jobs of the Brooklyn, N. Y., sugar refinery workers; to the Committee on Foreign Affairs.

6962. Also, petition of the Ladies' Aid Society of Rugby Congregational Church, Brooklyn, N. Y., favoring sugar legislation that will protect the jobs of the Brooklyn, N. Y., sugar refinery workers; to the Committee on Foreign Affairs.

6963. By Mr. KRAMER: Resolution of the Board of Supervisors of the County of Los Angeles, State of California, relative to the Geyer bill, authorizing the Secretary of War to make a survey of the proposed "T" tunnel as a means of transportation and communication between San Pedro, Wilmington, Terminal Island, and Long Beach, Calif.; to the Committee on Military Affairs.

6964. Resolution of the Screen Writers' Guild, Inc., relative to the Dies committee; to the Committee on Rules.

6965. By Mr. LAMBERTSON: Petition of Ada Crosswhite and 34 other citizens of Topeka, Kans., urging the passage of the improved General Welfare Act (H. R. 5620); to the Committee on Ways and Means.

6966. By Mr. MAGNUSON: Petition of the King County Independent Grocers Association, Inc., containing 552 signatures favoring the enactment of House bill 1, Patman chain-store tax bill, submitted by J. W. Wardel, editor, the Radio Review; to the Committee on Ways and Means.

6967. By Mr. MILLER: Petition of 30 residents of Manchester, Conn., favoring House bill 5620; to the Committee on Ways and Means.

6968. By Mr. RISK: Memorial of the General Assembly of the State of Rhode Island, memorializing Congress to enact suitable legislation to prevent any President of the United States from seeking a third term; to the Committee on the Judiciary.

6969. Also, petition of the General Assembly of the State of Rhode Island, to name the United States military reservation on West Main Road, Little Compton, R. I., in honor of Col. Benjamin Church; to the Committee on the Library.

6970. By Mr. RUTHERFORD: Petition of sundry residents of Bradford County, Pa., favoring passage of the General Welfare Act (H. R. 5620); to the Committee on Ways and Means.

6971. By Mr. SANDAGER: Memorial of the General Assembly of the State of Rhode Island, requesting that the

United States military reservation on West Main Road in the town of Little Compton, R. I., be named in honor of that illustrious colonial soldier, Col. Benjamin Church; to the Committee on Military Affairs.

6972. Also, memorial of the General Assembly of Rhode Island, memorializing Congress to enact suitable legislation to prevent any President of the United States from seeking a third term; to the Committee on Election of President, Vice President, and Representatives in Congress.

6973. By Mr. SEGER: Petition of 30 employees of the Van Dyk Furniture Co., Paterson, N. J., protesting against the form of the proposed 1940 census; to the Committee on the Census.

6974. By Mr. VAN ZANDT: Petition of the Greater Washington Unit of the Aircraft Owners and Pilots Association, endorsing House bill 5844 for a civilian air reserve; to the Committee on Military Affairs.

6975. By the SPEAKER: Petition of the United States Department of Agriculture, Windom, Minn. (seventh anniversary farm program dinner), petitioning consideration of their resolution with reference to the agricultural conservation program; to the Committee on Appropriations.

6976. Also, petition of the Board of Supervisors of the County of Los Angeles, petitioning consideration of their resolution with reference to House bill 7447, authorizing a survey of proposed T tunnel; to the Committee on Military Affairs.

SENATE

FRIDAY, MARCH 15, 1940

(Legislative day of Monday, March 4, 1940)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

The Chaplain, Rev. Zebarney T. Phillips, D. D., offered the following prayer:

Lord, God Almighty, who art of infinite perfection and who amidst the treacherous sands of time standest firm, our Rock of Ages: We turn to Thee from our perplexities and imperfections like men who turn from dusty toil to cleansing streams, for in life's desert places Thou art a spring whose waters never fail. As we pause in silence, let this place be made a holy shrine, a veritable chamber of reflection. We need a peace far deeper than the world can give, for there haunt us at this hour memories of duties unperformed, deeds of kindness left undone, words untrue, acts unworthy, thoughts impure, the stain of which is on us all. Hear us now, O blessed Christ, and as Thou hearest, forgive; appear to our waiting eyes; welcome us with outstretched arms; nor let us go until the sense of unfading light, of spotless purity, of long-suffering love steals upon us, making it possible for us to share in Thy redemptive work. We ask it in Thy holy name. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, March 14, 1940, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. MINTON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Byrnes	George	Holman
Andrews	Capper	Gerry	Holt
Ashurst	Caraway	Gibson	Hughes
Austin	Chandler	Gillette	Johnson, Colo.
Bailey	Chavez	Glass	La Follette
Bankhead	Clark, Idaho	Green	Lee
Barbour	Clark, Mo.	Guffey	Lodge
Barkley	Connally	Gurney	Lucas
Bilbo	Danaher	Hale	Lundeen
Bridges	Davis	Harrison	McCarran
Brown	Donahey	Hatch	McKellar
Bulow	Downey	Hayden	McNary
Burke	Ellender	Herring	Maloney
Byrd	Frazier	Hill	Mead
Miller	Pittman	Smith	Van Nuys
Minton	Reed	Stewart	Wagner
Murray	Reynolds	Taft	Walsh
Neely	Russell	Thomas, Idaho	Wheeler
Norris	Schwartz	Thomas, Okla.	White
Nye	Schwellenbach	Thomas, Utah	Wiley
O'Mahoney	Sheppard	Townsend	
Overton	Shipstead	Tydings	
Pepper	Smathers	Vandenberg	

Mr. MINTON. I announce that the Senator from Washington [Mr. BONE] and the Senator from Utah [Mr. KING] are absent from the Senate because of illness.

The Senator from Maryland [Mr. RADCLIFFE], the Senator from Illinois [Mr. SLATTERY], and the Senator from Missouri [Mr. TRUMAN] are detained on important public business.

The VICE PRESIDENT. Eighty-nine Senators have answered to their names. A quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the House had passed a bill (H. R. 7079) to provide for the appointment of additional district and circuit judges, in which it requested the concurrence of the Senate.

BOARD OF VISITORS TO UNITED STATES MILITARY ACADEMY

Mr. SHEPPARD, as chairman of the Committee on Military Affairs, presented an announcement, which was read, as follows:

UNITED STATES SENATE,
March 15, 1940.

To the Senate:

By virtue of the authority vested in me by the act approved May 17, 1928, I hereby appoint the following members of the Senate Military Affairs Committee to the Board of Visitors to the United States Military Academy for the third session of the Seventy-sixth Congress: Senator MINTON, Senator SLATTERY, Senator CHANDLER, Senator GURNEY, Senator THOMAS of Idaho.

MORRIS SHEPPARD,
Chairman, Senate Committee on Military Affairs.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution adopted by the board of directors of the Philadelphia (Pa.) Bourse, protesting against the enactment of legislation which might bring further reduction in the amount of unrefined cane sugar entering the port of Philadelphia, which was referred to the Committee on Agriculture and Forestry.

He also laid before the Senate a letter from John D. Harris and Bertha Harris, of Victoria, Tex., relative to their property and certain difficulties with the Home Owners' Loan Corporation, which was referred to the Committee on Banking and Currency.

He also laid before the Senate the petition of the Polish Relief Committee of St. Hedwiges Parish and Polish societies, all of Manchester, N. H., praying for the enactment of the so-called Dingle bill, to authorize the appropriation of $20,000,000 for the relief of destitution among the civilian population of the subjugated Republic of Poland and the refugees in exile therefrom in other countries, which was referred to the Committee on Foreign Relations.

He also laid before the Senate a letter in the nature of a petition from the Chinese University Club of Hawaii, Honolulu, T. H. (whose membership is composed of American citizens), praying for the enactment of the so-called Pittman resolution empowering the President to place an embargo on the shipment of war supplies to Japan, which was referred to the Committee on Foreign Relations.

REPORT OF COMMITTEE ON AGRICULTURE AND FORESTRY

Mr. BANKHEAD, from the Committee on Agriculture and Forestry, to which was referred the joint resolution (H. J. Res. 258) to amend section 8 (f) of the Soil Conservation and Domestic Allotment Act, as amended, reported it with an amendment and submitted a report (No. 1324) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SMATHERS:

S. 3590. A bill conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the